



SEVENTH NATIONAL ASSEMBLY

PARLIAMENTARY

DEBATES

(HANSARD)

FIRST SESSION

FRIDAY 19 NOVEMBER 2021

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MAURITIUS

Seventh National Assembly

FIRST SESSION

Debate No. 33 of 2021

Sitting of Friday 19 November 2021

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

The National Anthem was played

(The Deputy Speaker in the Chair)

PAPERS LAID

The Prime Minister: Mr Deputy Speaker, Sir, the Papers have been laid on the Table.

A. Ministry of Local Government and Disaster Risk Management

The Report of the Director of Audit on the Financial Statements of the Statutory Bodies Family Protection Fund for the year ended 30 June 2019.

**B. Attorney General
Ministry of Agro-Industry and Food Security**

The Report and Accounts 2018-2019 of the Mauritius Cane Industry Authority.

ORAL ANSWERS TO QUESTIONS

COVID-19 – DEATHS - PERIOD 01 NOVEMBER-18 NOVEMBER 2021 – MEASURES PROPOSED

The Leader of the Opposition (Mr X. L. Duval) (*by Private Notice*) asked the Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues, Outer Islands and Territorial Integrity whether, in regard to the island of Mauritius, he will –

- (a) for the benefit of the House, obtain from the Civil Status Office, information as to the total number of deaths in the period 01 November to midnight 18 November 2021 and the comparative figure for the same 18-day period in the preceding year;
- (b) state if he has taken note of the excess number of deaths totalling 657 in September and October 2021 as compared to the average since year 2015 for these two months, as per figures compiled by Statistics Mauritius, and
- (c) state the new measures he proposes to take, if any, in view of the prevailing COVID-19 situation.

The Minister of Health and Wellness (Dr. K. Jagutpal): Mr Deputy Speaker, Sir, I am replying this question with the approval of Cabinet chaired by the hon. Prime Minister this morning and with the entire support of the hon. Prime Minister and all my colleagues.

Mr Deputy Speaker, Sir, COVID-19 has had significant impact on the lives and livelihood of each one of us in this country and worldwide. It has had dire consequences on the health, social and economic sectors.

Any policy decision depends on the -

“Behaviour of the virus” – its virulence and its contagiousity; the variants and the vaccine efficacy and treatment.

Hence, once again, Mr Deputy Speaker, Sir, this Private ...

The Deputy Speaker: One Second!

Mr X. L. Duval: If he can perhaps adjust his microphone. I have a problem to hear.

The Deputy Speaker: Please adjust your microphone.

Dr. Jagutpal: Hence, once again, Mr Deputy Speaker, Sir, this Private Notice Question is of health concern.

Mr Deputy Speaker, Sir, at the very outset, let me say how aggrieved we are on this side of the House by the demise of our citizens caused particularly by the pandemic. I convey my heartfelt sympathies and condolences to the bereaved families.

Mr Deputy Speaker, Sir, with respect to part (a) of the question, I am informed that the total number of registered deaths from 01 to 19 November 2020 was 556 in the island of Mauritius and 970 in the corresponding year for 2021.

With regard to part (b) of the question, I have taken note that the number of deaths has been increasing for the last two months.

Should the Government not had taken all these appropriate measures since the beginning of the pandemic, as Dr. Musango, the WHO representative in Mauritius had stated, the death toll would have been threefold.

If last year the projection was of 2,000 deaths, it would have been expected that today we would have witnessed more than 6,000 deaths.

With respect to this part of the question, I would like to highlight that Mauritius has some specificities that put our population at higher health risk. Mauritius is witnessing a demographic shift with the declining fertility rate, increasing life expectancy and is classified as the oldest country in Africa in terms of the age of its population. This is measured by the median age of the population which was 37.6 in the year 2020 compared to other African countries, which is below 20 years. The other risk factors are -

- (i) the high prevalence of Non-communicable Diseases and their risk factors;
- (ii) the high population density, and
- (iii) the high population mobility across the country.

Old persons are more prone to develop severe forms of COVID-19 as a result of their decreased immunity. Though we have a high vaccination coverage, we still have a proportion of unvaccinated persons among old persons and those with comorbidities.

We are among the top countries in the world with high prevalence rates of diabetes and of prediabetes, high blood pressure, cardiovascular diseases and cancer, which obviously lead to complications arising out of these diseases and also requiring dialysis treatment among others.

The high population density of Mauritius is around 650 persons per square kilometre and high mobility also contributes to the rapid transmission of the coronavirus.

Mr Deputy Speaker, Sir, with regard to part (c) of the question, my Ministry has taken and is taking several measures in view of the prevailing COVID-19 crisis and in accordance with its preparedness and response plan which has been updated this week -

(i) Restriction Measures

The Consolidated COVID-19 Regulations have been amended in order to limit the premises open to public, subject to specified conditions, specific events and activities that are allowed and the conditions attached thereto, and define places which are to remain closed and activities which are prohibited.

Moreover, to contain the transmission of the disease, Government has taken the decision that no class will be held in all educational institutions with effect from 10 November.

Restriction - Sanitary measures, regulations to access to certain events (limited to 10 persons - 50 persons) limited to vaccinated individuals and children.

(ii) Setting up of COVID-19 wards in all Regional Hospitals

Initially, all the 5 Regional Hospitals were requested to set up isolation wards for the segregation of COVID-19 patients with mild symptoms.

As and when the patients developed severe form of the disease, they were transferred to ENT Hospital, which was the only centre providing treatment.

Mr Deputy Speaker, Sir, all the Regional Hospitals...

(Interruptions)

These are new measures.

...are managing COVID-19 positive patients.

Nevertheless, Mr Deputy Speaker, Sir, patients requiring advanced medical treatment and care are still being transferred to ENT hospital.

(iii) Treatment Protocol

Mr Deputy Speaker, Sir, the treatment protocol also has been amended. We are in a dynamic situation where the treatment protocol keeps on changing. I can assure the House that we have procured all medications that are regularly being approved by WHO for use in the treatment of COVID-19 patients. These are -

- (a) Dexamethasone;
- (b) Lovenox;
- (c) Favipiravir;
- (d) Remdesivir, and
- (e) Tocilizumab.

Furthermore, letters of award have been issued for the procurement of Molnupiravir and additional quantities of Tocilizumab, as new measures.

Mr Deputy Speaker, Sir, the Drug and Therapeutic Committee of my Ministry has already given its approval for the use of the above pharmaceutical products as well as for the use of Ronapreve in the management of COVID-19 patients.

(iv) Oxygen Supply

- (a) Oxygen Generating Plant

In order to maintain the preparedness condition with the increase in the number of infected COVID-19 patients, my Ministry is procuring one additional 1,000 Litres Per Minute Oxygen Generation System.

- (b) Oxygen Tank

My Ministry has also made arrangements for the installation of ISO tanks for the supply of liquid oxygen at ENT and other hospitals.

- (c) Oxygen Concentrators

My Ministry is also procuring 15 oxygen concentrators with maximum oxygen flow of 10 litres per minute. The World Health Organisation has provided us with 70 oxygen concentrators.

Mr Deputy Speaker, Sir, my Ministry has also sought the assistance of the French authorities to procure liquid oxygen from Reunion Island, the nearest supplier country to Mauritius. The services of the Barracuda instead of a commercial vessel have been secured to transport the liquid oxygen from Reunion Island for timely delivery.

(a) Human Resources:

- A new protocol for staff who are contacts of positive cases living in the same place of residence so as to increase the number of Health care workers on duty, while ascertaining their security as well as that of patients.
- Medical and non-medical staff on approved leave have been called back on duty.
- Retired Nursing Officers have been recruited on contract.
- Services of a Resuscitation Specialist and a Senior Resuscitation Nursing Officer from Réunion Island have been enlisted to improve health care provided.
- Elaboration of a revised protocol to facilitate access to screening and triage for screening (simplification of procedures to reduce waiting time and digitalisation of files of positive patients and contact cases, sharing of information to Public Health and Curative teams).
- Creation of the Domiciliary Monitoring Unit (DMU) to allow positive patients with no risk factors to self-isolate while having the possibility to have recourse to or to benefit from medical assistance.
- Acquisition of 500 adult pulse oximeters and 500 paediatric pulse oximeters for the domiciliary surveillance of oxygen levels of positive patients.

- Increase in transport facilities and capacities for patients towards Regional Hospital Treatment Centres and ENT Hospital: twofold increase for SAMU services, twofold increase of Rapid Response Teams, and
- Creation of a post of Anaesthetist coordinator at ENT Hospital and creation of a post of Nursing Coordinator at ENT Hospital.

The Elaboration of national protocols for the patient's journey, from diagnostic to recovery: protocol for DMU, for COVID-19 wards, transport and conveyance, ENT and National therapeutic protocol.

- Dynamic adaptation of therapeutic protocols following the recommendations of the Centres for Diseases Control (United States, Europe and Africa) and the World Health Organisation.
- Establishment of a clinico-biological committee regrouping various specialists in the different fields of medicine (infectiologist, immunologist, internal medicine, pulmonologist, gastro-enterologist, anaesthetist, biologist). And all these, their role is to –
- ensure a daily monitoring of latest medical articles published in main scientific and medical journals;
- participate in international group discussions;
- work on national protocols;
- advise on a case to case basis;
- participate, on a daily basis, to a clinico-biological meeting, and
- remain available on a 24-hour basis in case of emergency.

The other measures are the Vaccination Strategy that has been reviewed –

- Booster doses for COVID-19 vaccines are being administered to health care workers from both public and private sectors, patients suffering from cancer, patients suffering from immunosuppressed diseases and persons with comorbidities will be administered Pfizer vaccines.
- Further sensitisation of the public via media campaign.

- Additional staff are being recruited - 50 Nursing Officers, 115 Health Care Assistants, 240 General Field Workers and 30 Public Health Inspectors on contract.
- Procedures have been initiated for the services of foreign doctors and nursing officers.
- Recruitment of 49 drivers, out of whom 20 would be trained to become Ambulance drivers.
- 240 General Workers have already been recruited, and
- 200 Hospital Attendants are being recruited.
- Strict surveillance of unvaccinated persons placed in Quarantine Centres.
- Testing by PCR.

In conclusion, Mr Deputy Speaker, Sir, our world has always been facing pandemics and other known calamities of considerable magnitude such as Spanish Flu, Plague, Ebola, SARS, Chikungunya, among others.

We have had several such examples, be it in developed countries or developing countries.

Also, around the world, hurricanes and storm surges do cause casualties and all this in spite of all the preparedness measures.

We can only mitigate the impact and we can only act to control them to the maximum. It is a shame that some are trying time and again to prove otherwise for political reasons.

M. le président, soyons sérieux !

Unlike some, on this side of the House, we are not in favour of treating deaths as mere digits and mere figures.

However, in view of the numerous questions set by the Leader of the Opposition, it is my duty to insist on the proper way to account for the outcomes of a pandemic.

In order to evaluate the impact of a pandemic in a given country, it is crucial to assess the global outcome of the policy put in place since the unfolding of the pandemic.

The best indicator - I repeat it, Mr Deputy Speaker, Sir - the best indicator for the comparison of results is to compare the total percentage of the population who passed away as a result of the pandemic and not to base on a specific period of time at the whim and caprices of some to get political mileage.

This total percentage gathers and takes...

(Interruptions)

The Deputy Speaker: Order!

Mr X. L. Duval: On a point of order, we hope he is not imputing motives because he did mention, this time, 'Leader of the Opposition'. If he did, can he, please, withdraw his imputation of motives?

Dr. Jagutpal: Mr Deputy Speaker, Sir, I referred to...

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

Order! One second! One second! Did you mean anything?

Mr X. L. Duval: Yes, he said...

(Interruptions)

The Deputy Speaker: Order!

Dr. Jagutpal: No, no.

(Interruptions)

The Deputy Speaker: Order! I am happy that he is saying so in front of the whole Assembly. I think...

(Interruptions)

Mr X. L. Duval: He said 'for political reasons'. That is not a motive?

The Deputy Speaker: Right now, he is saying clearly that he does not mean or intend to impute any kind of motives to any Member.

(Interruptions)

Dr. Jagutpal: No, Mr Deputy Speaker, Sir.

(Interruptions)

Mr Deputy Speaker, Sir, I will read again the paragraph where I mentioned the Leader of Opposition.

In view of the numerous questions set by the Leader of the Opposition, it is my duty to insist on the proper way to account for the outcomes of a pandemic. In order to evaluate the impact of a pandemic in a given country, it is crucial to assess the global outcome of the policy put in place since the unfolding of the pandemic. This is my answer.

Mr Deputy Speaker, Sir, the best indicator for the comparison of results is to compare the total percentage of the population who passed away as a result of the pandemic and not to base on a specific period of time.

This total percentage gathers and takes into consideration the efforts deployed in terms of coordination, communication, vaccination, education of the community, prevention at the ports of entry, handling of contact cases, handling of positive patients and the organisation of the logistic response.

This comparison shall also be made with countries having the same or more or less the same profiles. For example, Mr Deputy Speaker, Sir, Mauritius with a population of 1.2 million, its GDP per inhabitant is at USD8,622 according to the World Bank and the percentage of COVID-19 death as compared to the total population is at 0.047%. Mexico, with the same GDP per inhabitant, USD8,346, has a percentage death of 0.2%. Argentina, same GDP per inhabitant of 8,441USD has a percentage death of 0.25%.

(Interruptions)

Mr X. L. Duval: Mr Deputy Speaker, Sir, ...

(Interruptions)

He is going on and on.

The Deputy Speaker: Order!

Mr X. L. Duval: 20 minutes! 20 minutes!

(Interruptions)

The Deputy Speaker: Order!

Mr X. L. Duval: 20 minutes!

The Deputy Speaker: Order!

Mr X. L. Duval: *Li pou ale mem la?*

The Deputy Speaker: Order!

Mr X. L. Duval: *Line gagne diare ki sa ?*

The Deputy Speaker: No, no, no, no!

(Interruptions)

Order!

(Interruptions)

Order!

(Interruptions)

Hon. Leader of the Opposition!

Mr X. L. Duval: I withdraw!

The Deputy Speaker: Thank you very much. Hon. Minister!

(Interruptions)

Order! Thank you!

Dr. Jagutpal: Mr Deputy Speaker, Sir, I have a point of order. Whatever he has said, he has to withdraw.

The Deputy Speaker: He has already.

(Interruptions)

Dr. Jagutpal: Good!

(Interruptions)

The Deputy Speaker: Order!

Dr. Jagutpal: Mr Deputy Speaker, Sir, ...

The Deputy Speaker: One second! One second! He has withdrawn it.

Dr. Jagutpal: Alright! Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: And I will just request: the question, as is formulated before me, talks of a comparison. I think, as long as he is going to compare figures, I would allow him to compare. But, hon. Minister, mindful that we need to be able to put questions too. Thank you!

(Interruptions)

Dr. Jagutpal: I am always available and ready to reply to questions.

The Deputy Speaker: Answer now!

Dr. Jagutpal: Mr Deputy Speaker, Sir, Argentina, with same GDP as Mauritius, and the percentage of death as compared to the whole population is 0.25%.

Finally, Bulgaria, a country with 6 million inhabitants and a GDP of USD9,900 has a death percentage of 0.39% of the population.

Mr Deputy Speaker, Sir, the Leader of the Opposition has always asked for situation reports on specific and small-scale, and this has absolutely no statistical or scientific coherence. I wonder what the Leader of the Opposition is trying to achieve in doing so. I guess, I know the answer, and the population too I hope. As now, I have used figures and no medical terms. The Leader of the Opposition will at least understand that citing figures of dead persons will not convince the nation at large that we are not doing what is right.

My point, Mr Deputy Speaker, Sir, is that when we do...

Mr X. L. Duval: Mr Deputy Speaker, Sir, with only five minutes...

The Deputy Speaker: Order!

Mr X. L. Duval: It is already 26!

The Deputy Speaker: I am sure everybody can count on my fairness in this House. Hon. Minister!

Dr. Jagutpal: I will finish in one minute.

The Deputy Speaker: Sure. All I want to say is we have reached about 20 minutes for your answers. Please! But I will listen to you. Answer the question!

Dr. Jagutpal: Mr Deputy Speaker, Sir, I will finish in 30 seconds. My point, Mr Deputy Speaker, Sir, is that when we do a serious and statistically coherent comparison between our country and other nations, well, then, the Leader of the Opposition has absolutely no ground to pursue. Yes, I do agree that our country is going through difficult times. I will, therefore, once more make an appeal and I wish to draw the attention of hon. X. L. Duval here; let us work for the welfare of the citizens together and at least set *politicaille* aside on such serious national issue.

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you very much.

Mr X. L. Duval: Mr Deputy Speaker, Sir, I had addressed the question to the Prime Minister. It is a missed opportunity for the Prime Minister to lead the nation in this difficult time. Nevertheless, I will now continue with the hon. Minister of Health and Wellness. He has, himself, stated in his figures that over the last 2 months and 18 days, there are more than 1,071 excess numbers of deaths. Now, nobody in Mauritius believes his figures, and he is going to tell us that these 1,071 extra deaths are not COVID-related because, in fact, he has only declared about six times less in his weekly meetings. So, what the nation needs is the truth, hon. Minister! So, come up with the truth now because you have no valid explanation as to nearly 1,100 extra deaths in the last 2 months and 18 days. Tell the truth! I plead with you!

The Deputy Speaker: Answer!

Dr. Jagutpal: Mr Deputy Speaker, Sir, I have given in my reply all the figures that have been required and last time, the hon. Member of the Opposition asked the Deputy Prime Minister about the figures; I think it was hon. Juman who asked for the comparative figures and the Deputy Prime Minister has given the figures. The figures stand as the figures. I have given the explanation of the figures and all is clear. We do not deny on figures, Mr Deputy Speaker, Sir, but what is the objective of what the hon. Leader of the Opposition is showing is totally wrong and biased.

Mr X. L. Duval: Mr Deputy Speaker, Sir, the Government has been hiding the true figures, and the true figures are coming out daily and they are against page 3 of the WHO guidelines.

Now I want to come to some of the measures he has announced. His Ministry wrote yesterday to the Ambassador of the French Republic asking, amongst others, for *un audit des pratiques, de partager des protocoles de prises en charge et de dispenser une formation théorique* to the staff - and I have the letter here - of his Ministry. *Après la mort, la tisane!* After 1,100 people have died last 2½ months and so many have died for a year, it is only now that the Minister is asking for the French to come to train his people, which he said last week in his PNQ, in the same House a few days ago, that we were the best in the world as far as intubation is concerned. Does he deny this letter?

Dr. Jagutpal: Mr Deputy Speaker, Sir, in Mauritius, we have regularly been having training with the Reunion counterpart and this has been continuous. We kept on sending letters and having the cooperation of the Reunion Island; the doctors, the health personnel over there. This is not a new element. Again, what the Leader of the Opposition is trying to show is not new. The Ministry of Health and Wellness has been collaborating with the WHO. There are so many experts who have come to Mauritius through the WHO. We keep on extending our cooperation, especially with Reunion Island. This will keep on happening. The Leader of the Opposition has also to say how many letters we have been sending to Reunion Island about cooperation. He is going to stick to what has been sent yesterday.

The Deputy Speaker: Thank you. Question!

Mr X. L. Duval: Mr Deputy Speaker, Sir, the letter says “*Madame L’Ambassadrice, notre pays a besoin en urgence d’oxygène.*” He is telling us this is a regular letter?

(Interruptions)

The Deputy Speaker: Order!

Mr X. L. Duval: *En urgence! Le bateau, Barracuda, est prêt à appareiller dès cet après-midi - dès cet après-midi - to go and pick up oxygen en urgence ! En urgence, Mr Deputy Speaker, Sir! Shame on the Minister!*

The Deputy Speaker: No, no, no!

(Interruptions)

An hon. Member: Shame on you!

(Interruptions)

The Deputy Speaker: No, no, no!

Mr X. L. Duval: *En urgence!*

The Deputy Speaker: Your question is done? Answer!

Dr. Jagutpal: Mr Deputy Speaker, Sir, it is very improper to cite the letter addressed to the Embassy, especially to say what has been the request and naming the Embassy. I think this is not proper to say, first.

Secondly, obviously we will be in *urgence* because, Mr Deputy Speaker, Sir, Mauritius, as I have already said, has a capacity...

(Interruptions)

An hon. Member: *Aller do!*

Dr. Jagutpal: Mr Deputy Speaker, Sir, Mauritius has a capacity to produce oxygen. This is what we have already forecasted. This is the preparation and in a preparation, when it would have been a damage is when at present, in Mauritius, we would have been in shortage of oxygen. We already have the amount of oxygen now, but it is a preparation. In the future, if ever we need more oxygen, we are already addressing this issue now and not what the Leader of the Opposition is saying that it is something that we need now. There is nothing like that, Mr Deputy Speaker, Sir. The letter is addressed because yes, this is an urgent matter; it is an urgent preparation for us so that in the future, we do not come into a situation where there is a shortage of oxygen.

The Deputy Speaker: Thank you. Question!

Mr X. L. Duval: Mr Deputy Speaker, Sir, that we need to facilitate *ces opérations vitales pour notre peuple!* Mr Deputy Speaker, Sir, I would like to ask why *ces opérations vitales pour notre peuple...*

(Interruptions)

The Deputy Speaker: Order! Order! Order! Hon. Leader of the Opposition, I do not know right now where you are reading from. Would you table? I do not know. Can I have a look at the letter?

Mr X. L. Duval: I will table it in a moment. I have to read from it.

The Deputy Speaker: No, sure.

Mr X. L. Duval: Okay, I will table it.

The Deputy Speaker: But while you read from it, I will have to know where you are reading from, I think.

Mr X. L. Duval: Mr Deputy Speaker, Sir, he is not contesting the letter. It is here. Mr Deputy Speaker, Sir...

The Deputy Speaker: Can I please be given a copy of the letter?

Mr X. L. Duval: Yes, you can take. Someone can come and take it. Do you want me to bring it?

Okay. So, why is it that after we have had thousands of people dying in this country - and he has constantly denied the need to look at ENT, the facilities at ENT, because 92% of people have died at ENT in the Intubation Ward - only now he wants to *dispenser une formation théorique de lundi à samedi* to the staff of his Ministry? What is this?

(Interruptions)

The Deputy Speaker: Order! Answer!

Dr. Jagutpal: Mr Deputy Speaker, Sir, again, I do not understand the objective of the Leader of the Opposition. When the Ministry is preparing for the future, what the Leader of the Opposition is trying to say is that we have not done the preparation. When we do the preparation, you say why are we doing this preparation at this moment? One, I believe that he does not understand medical terms, I understand, but he does not understand figures. Now, I understand that he also does not understand preparation.

(Interruptions)

The Deputy Speaker: No!

Mr X. L. Duval: He has not taken any action for the last one and a half years and only given condolences to the masses of people who have suffered in this country from deaths in their family. He should be ashamed of himself, Mr Deputy Speaker, Sir! He should be ashamed of himself!

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

Mr X. L. Duval: Now, I continue, Mr Deputy Speaker, Sir.

(Interruptions)

An hon. Member: *La honte!* Shame!

(Interruptions)

Dehors!

An hon. Member: *Fer politik lor le dos dimoun !*

(Interruptions)

An hon. Member: Resign!

(Interruptions)

Shame!

(Interruptions)

Mr X. L. Duval: A lot of noise from the *poulailler* up there, Mr Deputy Speaker, Sir. Can you do something about it?

The Deputy Speaker: No, I am just asking everybody...

(Interruptions)

Order!

(Interruptions)

I am asking everybody...

Mr Dhunoo: On a point of order! The Leader of the Opposition...

The Deputy Speaker: One second, I have not recognised you yet. Wait! I am asking everybody...

(Interruptions)

Order!

(Interruptions)

I am asking everybody to cooperate so that we allow maximum questions and maximum answers. Point of order!

Mr Dhunoo: I heard the Leader of the Opposition saying from the *poulailier*. Show some respect! He did not show any respect to the people dying there! What is this?

(Interruptions)

The Deputy Speaker: Order! Order! Order!

(Interruptions)

Order!

(Interruptions)

Order!

(Interruptions)

Order!

(Interruptions)

Order!

(Interruptions)

Members of the Opposition! Be mindful that you are wasting vital time for question!

(Interruptions)

Order! Wait! I have...

(Interruptions)

Hon. Dhunoo! Hon. Dhunoo! Hon. Dhunoo!

(Interruptions)

Hon. MP! Order!

(Interruptions)

Hon. MP Dhunoo!

(Interruptions)

An hon. Member: Out!

(Interruptions)

The Deputy Speaker: Order! Hon. MP Dhunoo, after your point of order, it is in order that you allow me to give my ruling. Thank you very much. Was...

(Interruptions)

Mr X. L. Duval: I withdraw the word “*poulailier*”. If he finds it upsetting, I remove it.

The Deputy Speaker: Thank you very much. We are done with your point of order. Question!

Mr X. L. Duval: Mr Deputy Speaker, Sir, we continue. I was not meaning him, but maybe he thinks he is *visé*. Mr Deputy Speaker, Sir, let me continue...

(Interruptions)

I asked for the new measures, Mr Deputy Speaker, Sir, to protect the population. Now, on 11 November 2021, the Ministry of Commerce raised the issue of alphabetical selection for shopping, asked the High-Level Committee for permission to ration basic essential commodities. This was turned down by the High-Level Committee, of which he is a member. I had asked the Chairman, but the Chairman has not answered. So, the Minister will answer, Mr Deputy Speaker, Sir, why has the rationing of basic essential products not been done whereas it would seem that this is what the Ministry of Commerce had wanted at that date, last week.

Dr. Jagutpal: Mr Deputy Speaker, Sir, I will come back to what the Leader of the Opposition has said earlier.

(Interruptions)

An hon. Member: *Aryo!*

Dr. Jagutpal: ...that the...

The Deputy Speaker: One second!

An hon. Member: *Met li dehor! Ki palab to pe fer?*

The Deputy Speaker: Hon. Nuckcheddy, that is a very gentle and kind warning. Hon. Shakeel Mohamed, I think your name is not on the list of orators. I hope you put your name on the list of orators rather than making comments!

(Interruptions)

Order!

(Interruptions)

The hon. Leader of the Opposition is doing a good job by putting questions for the population, and it is not very decent to be shouting and preventing him from putting the question.

(Interruptions)

Hon. Nuckcheddy, I think you want a tea break. Next time, you will have one.

Mr X. L. Duval: Mr Deputy Speaker, Sir, I will ask the hon. Minister this.

Dr. Jagutpal: Mr Deputy Speaker, Sir, I have not replied the question...

Mr X. L. Duval: I asked really the question about the ...

The Deputy Speaker: Allow him to reply!

Mr X. L. Duval: ...alphabetical, but I got...

The Deputy Speaker: Allow him to reply!

Dr. Jagutpal: Mr Deputy Speaker, Sir, I will come back to what he said earlier. He does not understand what is a preparation. What he is saying is the oxygen that we are ordering, that we are getting from Reunion Island. Does he mean that we have not been giving oxygen to patients who have passed away? He is making that correlation, and that is wrong what he is doing. It is very wrong and that is shameful what he is doing. When patients have been receiving treatment by doctors according to international guidelines, now what he saying is that because

we are having oxygen from Reunion Island, that is why patients died. It is totally shameful doing such a correlation.

The Deputy Speaker: No, no, no.

(Interruptions)

Mr X. L. Duval: I never said...

(Interruptions)

Dr. Jagutpal: Now, Mr Deputy Speaker, Sir...

(Interruptions)

The Deputy Speaker: Order! Order! Order! Order!

(Interruptions)

Order!

(Interruptions)

Order! Order! Hon. Minister, order!

(Interruptions)

Hon. Minister, I do not allow comments being made *à l'égard* of the Leader of the Opposition. It is not proper to say it is shameful and all that. You are answering very well.

Dr. Jagutpal: Thank you, Mr Deputy Speaker, Sir!

The Deputy Speaker: So, just give the answer. We will have a last question. Time for a last question!

Dr. Jagutpal: Mr Deputy Speaker, Sir, I have not finished yet. About the resignation, I believe that he has to look himself. He is the Leader of the Opposition with only few Members; whether he is holding the majority of the Opposition...

(Interruptions)

...he has...

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

An hon. Member: *Dir pli fort!*

The Deputy Speaker: Order! Last question!

Mr X. L. Duval: I am ashamed, Mr Deputy Speaker, Sir.

The Deputy Speaker: No! Question! Question!

Mr X. L. Duval: I am ashamed!

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

Dr. Jagutpal: Mr Deputy Speaker, Sir, about the High-Level Committee, I believe that he should table the document that he has, especially saying inappropriate things about the High-Level Committee. The High-Level Committee is monitoring the situation on a daily basis and whatever decisions will be taken by the High-Level Committee, I have already stated this morning in the Press briefing that the High-Level Committee has already decided how the vaccination programme will be done as from Monday. So, this is the decision of the High-Level Committee and at no point in time the High-Level Committee has been apprised with what he has stated; what hon. Callichurn has said.

(Interruptions)

The Deputy Speaker: Last!

Mr X. L. Duval: Mr Deputy Speaker, Sir, I have my last question.

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

I do not want you to waste time for the last question. Short, sweet question!

Mr X. L. Duval: Mr Deputy Speaker, Sir, there is this big issue of people going to – I asked the same question last week, I got no reply – hospitals, being tested positive and being sent back on a public transport. And I saw the NLTA this morning; there was nothing about social distancing in the bus even. So, these people, thousands of people a day, travelling on overcrowded buses back home, spreading this COVID virus everywhere.

An hon. Member: Metro!

Mr X. L. Duval: And the Metro, of course! What is the Minister proposing to stop this dangerous spread of the virus as far as people testing positive in flu clinics returning home?

Dr. Jagutpal: Again, Mr Deputy Speaker, Sir, the hon. Leader of the Opposition should have stated also all the precautions that you have to take because anybody today, you may not have symptoms, you are vaccinated, you may be tested positive.

Mr Deputy Speaker, Sir, he has to understand that all the measures that have been taken in terms of wearing masks, in terms of protecting each and every one, we all have to abide by these measures. That is the way that we can break the transmission chain and if we keep on stating that this should have been done, that should have been done - I believe that he watches television daily, he sees what is happening in other countries, and he knows what are the measures being taken and how measures are being taken. He has been witnessing all the different evolutions of the pandemic. Yes, at a time we had to do the social distancing in the buses, but he never stated the vaccination status of the country. You have to take into consideration all the other aspects; vaccination, imposing sanitary measures. That will depend upon all the additional measures to be taken. And it is not just based on one aspect of it, seeing only one face of it, and trying to say that: ‘this is not being done; that is not being done.’

The Deputy Speaker: Thank you very much. Time over!

MOTION

SUSPENSION OF S. O. 10(2)

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

The Deputy Prime Minister seconded.

Question put and agreed to.

PUBLIC BILL*Second Reading***THE CYBERSECURITY AND CYBERCRIME BILL****(No. XV of 2021)**

*Order read for resuming adjourned debate on the Cybersecurity and Cybercrime Bill
(No. XV of 2021).*

Question again proposed.

The Deputy Speaker: Hon. Mrs Sandra Mayotte!

(3.45 p.m.)

Mrs S. Mayotte (Second Member for Savanne & Black River): M. le président, tout d'abord permettez-moi de féliciter mon collègue le ministre de la Technologie, de la communication et de l'innovation pour son élocution la semaine dernière donnant ainsi le coup d'envoi aux débats parlementaires sur le *Cybersecurity and Cybercrime Bill*.

Les débats sur le projet de loi concernant la cybersécurité et la cybercriminalité me rappellent ceux sur le *COVID-19 Bill* et le *Quarantine Bill* qui étaient débattus au mois de mai 2020, ici, dans cette auguste Assemblée. Bien évidemment les membres de l'opposition étaient contre ces projets de loi. Le Leader de l'opposition d'alors, je dis bien d'alors, parce qu'entre-temps ça a changé, avait même dénoncé ce qu'il considérait comme injuste le fait que les services de l'ordre verbaliseraient ceux qui ne respectent pas le protocole mis en place par le gouvernement, car avait-il dit, je cite –

« Les gens n'ont même pas à manger et maintenant ils vont devoir payer cher des contraventions pour le non-port du masque. »

Certains membres de l'opposition, dans leur discours, avaient fait croire à la population que le *COVID-19 Bill* et le *Quarantine Bill* avaient été votés avec pour but de porter atteinte à la liberté de la population, qu'il y aurait des descentes des forces de l'ordre à n'importe quelle heure du jour et de la nuit chez nous, bla-bla-bla, bla-bla-bla. Et ça a été la même chose pour la campagne de vaccination où certains membres de l'opposition ont instauré la peur à propos de ce

fameux *consent form*. Beaucoup de personnes ont eu peur, ont hésité et ne se sont pas faits vacciner jusqu'à ce jour. Et nous voyons un peu les conséquences aujourd'hui.

M. le président, c'est le même scénario auquel nous assistons en ce moment et ce depuis le début des débats sur le *Cybersecurity and Cybercrime Bill*. Est-ce là une belle application de la théorie du complot où une opposition qui veut donner une toute autre lecture à un projet de loi qui se veut être en faveur du peuple. Une opposition démagogique et polémiste qui veut faire croire au peuple que rien n'arriverait par hasard, que chaque décision prise par ce gouvernement n'est nullement en faveur des citoyens.

M. le président, aujourd'hui, il est question de loi. Il ne faut pas oublier que les lois permettent de maintenir l'équilibre entre nos droits individuels et nos obligations en tant que citoyen. Par exemple, lorsqu'une loi donne à une personne le droit de conduire, elle lui impose également l'obligation de savoir conduire et de respecter le code de la route.

J'ai écouté attentivement quelques interventions des membres de l'opposition et j'ai surtout écouté attentivement l'intervention de l'honorable Anquetil, qui d'ailleurs prend souvent plaisir à s'acharner sur notre ministre de l'Égalité des genres, où elle a surtout mis l'emphasis sur « qu'a fait notre ministre de l'Égalité des genres et où était-elle quand une certaine Madame K. se faisait attaquer, agresser sur les réseaux sociaux ? » acte que nous condamnons catégoriquement.

Alors, moi, je me suis posée la question, que faisait l'honorable Anquetil, qui donne toujours l'impression de prendre position en faveur des femmes ; que faisait l'honorable Anquetil quand son ex-collègue, Mademoiselle N. D. se faisait insulter sur la place publique par son Leader ? ...

(Interruptions)

La traitant de tous les noms.

(Interruptions)

Ms Anquetil: Ça n'a rien à voir.

(Interruptions)

Mrs Mayotte: Nous parlons des réseaux sociaux, mais là je vous parle du réel, M. le président.

(Interruptions)

The Deputy Speaker: Continue!

Mrs Mayotte: Alors, je pense que nous devons être un peu plus sage et avoir un peu plus de sens de discernement dans nos propos, M. le président, quand nous sommes ici dans cette auguste Assemblée. Je pense qu'il serait beaucoup plus sage de voir la poutre qui est dans notre œil au lieu de voir la paille qui est dans l'œil de notre voisin.

(Interruptions)

M. le président, j'ai également noté la remarque - amen - par l'honorable Uteem sur le fait de *causing harm* en référence à la section 16 de ce projet de loi qui dit, et je cite –

“Any person who individually, or with other persons, makes use of a fake profile to cause harm shall commit an offence (...) on conviction, be liable to a fine not exceeding one million rupees or to penal servitude (...) not exceeding 20 years.”

L'honorable Uteem pense que '*to cause harm*' c'est trop généralisé. À mon humble avis, M. le président, quand on fait du mal, on fait du mal ! Faire du mal ce n'est pas : *inn gagne enn tigit mem dimal*. Et à ce sujet on peut faire la distinction avec la notion de *annoyance* qui a été jugée trop floue par le judiciaire. Il y a, je pense, une grande différence de degré entre *causing annoyance* et *causing harm*. Il ne faudrait pas faire le parallèle. C'est un parallèle de mauvais goût entre ces deux termes. Là où '*annoyance*' n'a pas nécessairement de conséquences graves, '*causing harm*' en a toujours. Et quitte à me répéter, le '*harm*' peut être psychologique, pas nécessairement physique mais peut avoir des conséquences graves. Par exemple, si on pousse quelqu'un à se suicider par des propos sur les réseaux sociaux, ou si l'on tient des propos qui lui occasionnent un dommage au niveau de sa réputation, ou au niveau professionnel, ou encore dans sa vie de couple, en réalité on peut tout à fait *assess* le résultat de *causing harm* contrairement à ce que l'honorable Uteem voudrait faire croire. Mais ce qui est intéressant dans ses propos, c'est quand il parle de précision. Moi, je suggérerai à l'honorable ministre de la Technologie d'inclure peut-être dans cette clause : *causing harm and causing harm to third*

person or family members. Parce qu'on n'imagine pas, M. le président, le mal qu'on puisse faire à l'entourage d'une personne quand elle est attaquée sur les réseaux sociaux.

Ceci dit, M. le président, la révolution numérique a provoqué une dépendance progressive de tous les secteurs d'activités humaines, aux technologies de l'information et de la communication en raison des multiples applications qu'elles offrent. Et l'outil technologique fait désormais partie intégrante du quotidien de tout un chacun. À travers sa stratégie nationale de développement des TIC, ce gouvernement sous le leadership de Pravind Jugnauth, s'est résolument engagé à placer le numérique au centre des processus de développement du pays avec pour ambition d'en faire un vecteur de croissance et de productivité aussi bien pour les administrations publiques que pour le secteur privé.

Selon l'Union internationale des télécommunications, dans son *Global Cybersecurity Index* de 2020, seuls 29 pays africains ont une législation sur la protection de données, 23 pays africains ont une stratégie nationale de cyber sécurité, 19 ont un centre d'alerte et de réponse aux cybers attaques, seuls 31 ont une législation sur le piratage en ligne sur les réseaux. Et bien, sachez, M. le président, que seuls 15 pays affichent un niveau de préparation dans la cybersécurité supérieure à la moyenne mondiale et l'île Maurice demeure leader du continent Africain, une place que l'île Maurice occupe depuis 2014, pas avant, mais depuis 2014.

Les cybers crimes sont une réalité dans notre paysage cybernétique, M. le président. Le *Computer Emergency Response Team of Mauritius (CERT-MU)* a enregistré plus de 2000 plaintes de janvier 2020 à janvier 2021. Ces plaintes concernent principalement des offenses telles que le *cyberbullying*, qu'il est bon de rappeler, désigne tout comportement au moyen de technologie de l'information et de la communication qui est répétitif, persistant, intentionnellement préjudiciable ou qui implique un déséquilibre de pouvoir, qu'il est bon de rappeler, désigne tout comportement au moyen de la technologie, de l'information et de la communication qui est répétitif, persistant, intentionnellement préjudiciable ou qui implique un déséquilibre de pouvoir entre l'auteur et la victime et provoque des sentiments de détresse, de peur, de solitude ou de manque de confiance en la victime et qui entraîne de graves dommages physiques, psychologiques, un handicap ou mort de la victime.

Puis, bien sûr, sur cette liste, il y a les fraudes, les faux *profiles* sur les réseaux sociaux, les propos qui incitent à la haine raciale ou encore le harcèlement. Et à propos de faux *profiles*,

j'ai entendu, il y a quelques jours dans son intervention, l'honorable Assirvaden, qui semblait être à côté de la plaque, dire qu'il n'était pas d'accord que les faux *profiles* soient *targeted* dans ce projet de loi. Il ne faut pas oublier qu'il y a quelques mois de cela, c'était au mois de septembre même, alors que l'honorable Assirvaden intervenait, où il condamnait personnellement les *fake news* et les faux *profiles* dans son intervention alors qu'il était question de l'état de santé de son Leader.

M. le président, pour revenir au *Computer Emergency Response Team of Mauritius*, qui selon le paragraphe 38 est institué, au sein du ministère, au fin de la présente loi du *CERT-MU*, est l'agence nationale de coordination des activités de réponse à la cybersécurité et de promotion à la cybersécurité au niveau national.

Le paragraphe 38 de ce projet de loi nous donne tous les détails sur l'importance et les responsabilités directeurs du *CERT-MU*. Le directeur qui est assisté d'une équipe d'officiers ayant les qualifications et l'expérience prescrites pour conseiller et assister le gouvernement sur la mise en œuvre des politiques stratégiques, une meilleure pratique de la cybersécurité, coordonner les activités de réponse aux incidents de cybersécurité, fournir une assistance technique au service répressif dans la résolution des problèmes de cybersécurité, diffuser les alertes de cybersécurité, des avis, des notes, de vulnérabilité aux organisations et au public.

M. le président, un crime est une action prohibée, interdite par la loi. Il est donc plus qu'important de nos jours de nous pencher sur un nouveau projet de loi qui soit adapté à l'écosystème et l'infrastructure technologique. Au fil des ans, on constate que les moyens utilisés par les malfaiteurs sont de plus en plus sophistiqués et ingénieux. Certaines enquêtes de victimisation de la cybercriminalité démontrent que la prévalence de ces crimes n'est pas négligeable et en hausse constante.

Le phénomène des cybercrimes est préoccupant car il prend de l'ampleur et les conséquences adverses pour les individus, les industries, l'économie, les gouvernements sont de plus en plus considérables et coûteux. Même si de nombreux moyens technologiques ont été développés ces dernières années pour enrayer ce genre de crime, force est de constater que ces seuls moyens ne sont pas infaillibles et qu'ils demeurent insuffisants pour prévenir tous les types de cybercrimes.

Personne n'est à l'abri de la cybercriminalité, M. le président, et les personnes âgées, moins familières de l'univers du numérique, apparaissent particulièrement vulnérables. Il y a quelques années, nos aînés n'utilisaient pratiquement pas d'ordinateur. Aujourd'hui, ce sont des internautes comme les autres. Ils sont nombreux à avoir un *smartphone*, à posséder un compte sur les réseaux sociaux ou à surfer sur internet. Mais malgré cet engouement, ils sont moins conscients, contrairement aux plus jeunes, des cybersmenaces et la plupart du temps, ne disposent pas des solutions et de l'expérience nécessaire pour identifier les attaques et tentatives frauduleuses. C'est une des raisons pour laquelle nous devons soutenir ce projet de loi.

De même que les plus jeunes qui, quoi qu'étant des *digital natives*, manquent de maturité pour repérer certains comportements suspects.

Très présents sur internet, les plus jeunes constituent, en particulier, des proies faciles pour les prédateurs sexuels. La pratique du *grooming* consiste pour un adulte à gagner la confiance d'un mineur et parfois aussi de ses parents afin d'en abuser sexuellement. Et les réseaux sociaux, les forums de discussion, les jeux vidéo en ligne offrent de multiples d'occasions de contact entre les victimes et leurs futurs agresseurs qui se font parfois passer eux-mêmes pour des enfants ou des adolescents pour obtenir un rendez-vous avec le mineur sur l'internet. Face à l'industrialisation des attaques, la cybersécurité s'est constituée en discipline à part entière et se structure progressivement.

M. le président, étant moi-même artiste, le paragraphe 21 du projet de loi me parle personnellement car il est question de violation du droit d'auteur et des droits voisins. Je connais la souffrance des artistes, M. le président. Il n'est pas donné à tout le monde le don de créer, de composer et quand vous voyez la manière dont certaines œuvres sont piratées, exploitées, copiées, plagiées, cela frôle le dégoût. Les artistes doivent pouvoir vivre de leur art. Pirater, c'est voler, priver l'artiste d'une rémunération à laquelle il a droit. Selon le code de la propriété intellectuelle, pirater une œuvre équivaut bien à un vol.

Alors, maintenant avec l'introduction de ce projet de loi, chacun devra réfléchir à deux fois avant de s'adonner à ce genre de pratique car il est stipulé que toute personne, qui sans l'autorisation exprimée de l'auteur ou du titulaire du droit d'auteur, tente d'utiliser, de publier ou de distribuer le travail d'une autre personne à des fins commerciales via un système informatique, télécharger des films, de la musique, des fichiers ou des applications logiciels piratés contre

rémunération ou publier une œuvre protégée telle que des écrits ou des graphiques en ligne contre rémunération, commet une infraction. Toute personne déclarée coupable en vertu du paragraphe 1 devra, sur une première condamnation, être passible d'une amende ne dépassant pas R 300,000 et d'une peine d'emprisonnement ne dépassant pas 2 ans.

Une deuxième condamnation ou une condamnation ultérieure passible d'une amende n'excédant pas R 500,000 et d'une peine d'emprisonnement n'excédant pas 8 ans. La protection au titre du droit d'auteur peut venir s'appliquer sur les œuvres les plus divers.

M. le président, l'objet principal de ce projet de loi est de prévoir un respect accru de la Convention de Budapest sur la cybercriminalité par la création d'infraction pénale supplémentaire liée à la cybercriminalité et à la cybersécurité, à l'amélioration des techniques d'enquêtes, le renforcement de la coopération internationale. Lorsqu'on voit les dérapages sur les réseaux sociaux et les différents types d'arnaques, de *bullying*, de *sextortion*, les incitations à haine raciale, il est plus important, M. le président, de protéger la population, de nous protéger et de protéger également les membres de l'Opposition.

M. le président, je pense que ce projet de loi offre un cadre méthodologique basé sur une approche par les risques et s'articulant autour des étapes suivantes; identifier, protéger, détecter, répondre, récupérer qui constituera une référence pour les organisations publiques et privées qui créent aussi un cadre réglementaire robuste et harmonisé visant à accroître la sécurité des données personnelles, composantes essentielles de la cybersécurité. Aujourd'hui, la cybersécurité repose donc également sur la sensibilisation et la formation des utilisateurs. Ceux-ci doivent adopter les bonnes pratiques et de venir aussi vigilants dans le cyberspace comme ils le sont dans la rue où ils doivent coûte que coûte respecter le code et les usagers de la route. Chacun est appelé donc à choisir comment bien utiliser ce moyen de communication tout en respectant à la fois son prochain et le cadre régulateur mis en place. Nous pourrions ainsi éviter de nous associer aux mauvais conseillers, de suivre le chemin des complotistes et de partager la mauvaise compagnie virtuelle de ceux qui ont un agenda caché. Chaque choix, bon ou mauvais, a sans nul doute ses conséquences et je conclurai, M. le président, par cette citation –

« Une loi ne pourra jamais obliger quelqu'un à m'aimer mais il est important qu'elle lui interdise de me lyncher » dit Martin Luther King.

J'en ai terminé, M. le président. Je recommande ce projet de loi à la Chambre et je vous remercie.

The Deputy Speaker: Thank you very much! Hon. Fabrice David, please!

(4.04 p.m.)

Mr F. David (First Member for GRNW & Port Louis West): Merci, M. le président. A la seconde même où mon micro a été activé par l'équipe technique, dont je salue le travail, et que les caméras de notre Assemblée nationale se sont tournées vers moi, j'ai commencé à apparaître en temps réel sur la tablette numérique de certains de mes collègues dans cette Chambre, sur les écrans d'ordinateur de nos libraires à l'étage et sur de nombreux *smartphones* allant de Mahebourg à Édimbourg en passant par Delhi et Paris.

C'est cela donc notre nouveau monde, numérisé et hyper connecté et s'il y a encore une vingtaine d'années, on comparait le monde à un village global, aujourd'hui, ce même monde a été rétréci à l'échelle d'une ruelle digitale grâce à la puissance du numérique. Pour autant, d'une ruelle, nous ne pouvons pas nous permettre de nous retrouver dans une impasse face aux potentielles embuscades d'un nombre grandissant de cyber malfaiteurs.

M. le président, alors que nous débattons sur ce projet de loi visant la cybersécurité et la cybercriminalité, j'aimerais dire, sur une note plus personnelle, que j'ai toujours eu tendance à penser, tant dans le monde réel que dans le monde virtuel, que la liberté des uns s'arrête là où commence celle des autres et tout cela nuancé évidemment par un degré de tolérance à ce qui peut nous toucher, nous blesser ou nous amuser.

Evidemment pour nous tous, ici, dans cette Chambre, membres du Parlement, hommes et femmes politiques, nous sommes par la force des choses, des hommes et des femmes publiques dans un monde numérique où il est devenu si facile de nous commenter, nous aduler, nous critiquer ou nous caricaturer. J'ai pour ma part eu droit à ma toute première caricature récemment dans un média en ligne dans le cadre de ma question parlementaire adressée au ministre de la Pêche sur l'ouverture de notre *demersal zone* aux opérateurs étrangers. Je montre cette caricature à l'écran, où on me voit en chemise rouge sur le rivage, interpellant le ministre Maudhoo, forcément en chemise orange ; je dois dire que cela m'a beaucoup amusé et malgré les

divergences qui nous séparent, le ministre de la Pêche et moi-même, j'ose espérer que nous puissions partager un certain sens de l'humour.

Et justement, en parlant des réponses à mes questions parlementaires, j'ai bien reçu celle du Premier ministre en réponse à ma question B/296 sur les équipes de cyber patrouilles. Cette question était à l'ordre du jour de la séance du 11 mai 2021 avec une réponse qui est arrivée juste avant la rentrée parlementaire du mois dernier, certainement dû à un bug informatique entre le PMO et l'Assemblée nationale, ayant entraîné un délai de transmission de cinq mois. Mais ce qui m'a frappé dans la réponse du Premier ministre, alors que son gouvernement souhaite visiblement combattre la cybercriminalité, c'est le nombre décroissant de policiers postés à la *Cybercrime Unit*. Le Premier ministre avait mentionné 25 officiers dans sa réponse à la question B/827, posée par l'honorable Luchmun Roy le 17 novembre 2020 et, curieusement, ce nombre est passé à 20 officiers dans la réponse à ma question du 11 mai 2021. J'ose espérer que ce ne sont pas les cinq seuls officiers de police qui ont des connaissances en cybercriminalité et en cybersécurité qui ont été transférés ailleurs, ce serait un comble.

M. le président, ce projet de loi dont nous débattons a pour but d'abroger la *Computer Misuse and Cybercrime Act* de 2003 et de la remplacer par une nouvelle législation, et là où je rejoins le ministre de la Technologie, de la Communication et de l'Innovation, c'est que la mise à jour de notre cadre légal est aujourd'hui une absolue nécessité pour s'adapter à notre nouveau cyberspace. Car, en effet, entre 2003 et 2021, nous avons connu 18 années d'innovation technologique, 18 années de transformation informatique, 18 années de transition numérique. Facebook créé en 2004, devenu le groupe Meta il y a quelques jours, WhatsApp lancé en 2009, Instagram en 2010, Snapchat en 2011, TikTok en 2016 et toutes ces plates-formes et applications évoluent constamment et rapidement et souvent à une allure qui nous est même difficile de suivre.

Cette évolution qui est en fait une révolution numérique, multiplie logiquement les possibilités et malheureusement les dérives dans le même temps et face à ces nouveaux cyber dangers, j'accueille favorablement la bonne prise en compte dans ce projet de loi des nouvelles infractions comme la fraude électronique, le cyber-harcèlement, la cyber-extorsion ou encore la vengeance pornographique. Il ne fait aucun doute pour moi que les 70 députés de cette Chambre condamnent sans hésiter cette nouvelle cybercriminalité sous toutes ses formes, tout comme je

suis persuadé que nous avons toutes et tous été scandalisés par l'affaire dite Telegram, qui a éclaté il y a quelques mois, faisant de nombreuses victimes, certaines mineures, et dont l'enquête est toujours en cours.

Pour autant, si nous partageons des deux côtés de la Chambre la même volonté de protéger nos enfants, nos compatriotes, nos entreprises et notre pays contre les cyber malfaiteurs, nous ne pouvons pas dissocier ce projet d'ajustement légal de son contexte politico-social. Le ministre des TIC a cru bon de citer dans son discours de présentation, les propos du seul orateur de l'opposition parlementaire en 2003, à savoir feu James Burty David qui avait pris la parole en effet pour soutenir le projet de loi de l'époque, mais ce que le ministre des TIC n'a pas dit c'est que le député David de l'époque, que j'ai bien connu et notamment lorsqu'il s'agissait de défendre nos libertés, a interpellé le ministre des TIC de l'époque de la façon suivante, et je cite le *Hansard* de 2003 –

« (...) quand le ministre fera le *summing-up*, je crois qu'il serait bon qu'il fasse mention des garde-fous que nous aurons en ce qu'il s'agit de la liberté personnelle. Quel est l'équilibre, quelle est l'harmonie qu'il essaiera de trouver entre ce qui est répressif et ce qui préserve la liberté de l'individu ? »

De plus, ce que le Ministre Balgobin ne peut pas dire c'est que le contexte de l'époque était nettement différent. J'en veux pour simple preuve, qu'en 2003, un seul parmi les huit députés de l'opposition avait pris la parole. Aujourd'hui, nous ne sommes pas moins de 10 députés parmi les 26 de ce côté de la Chambre à vouloir nous exprimer, trois fois plus de voix en proportion, et aujourd'hui contextuellement opposantes. En 2003, nous n'avions jamais vu une internaute arrêtée et maintenue en détention toute une nuit suite au partage sur le net d'une parodie concernant le Premier ministre. En 2003, nous ne pouvions imaginer que 11 policiers débarqueraient chez une Facebookeuse aux petites heures du matin pour l'interpeller suite au dépôt de plainte d'une PPS en raison d'un commentaire posté sur les réseaux sociaux. Comment concevoir, en 2003, qu'un document officiel de la Cour, avec les notes manuscrites d'une magistrate, puisse se retrouver comme par cyber magie dans la boîte électronique d'un super conseiller du PMO, qui allait lui-même transmettre ce document par WhatsApp ? En 2003, il était impensable que l'autorité même de régulation des TIC oserait proposer des amendements anticonstitutionnels à l'*Information and Communication Technology's Act* de 2001 qui

susciteraient une si grande levée locale et internationale de boucliers contre une approche intrusive et liberticide visant à intercepter, décrypter, analyser et archiver le trafic numérique. J'ai d'ailleurs pour ma part, eu la responsabilité de présider l'équipe de travail du Parti travailliste constituée de professionnels dans les domaines de la sécurité informatique, la communication digitale, les réseaux numériques ou encore le secteur bancaire et juridique et nous avons soumis, le 13 mai 2021, un rapport analytique détaillé qui répondait aux différents points soulevés dans le *Consultation Paper* de l'ICTA, tout en faisant, je le précise, des contre-propositions. Un document de 35 pages, soit le volume actuel du présent projet de loi et que j'ai personnellement été défendre dans les locaux de l'ICTA le 21 mai 2021 devant le président et l'équipe technique de cette autorité.

Alors que nous pensions ce projet enterré, voilà que son spectre revient nous hanter dans ce projet de loi qui propose aux Articles 29 et 30, sur ordre d'un Juge en Chambre, de collecter ou d'enregistrer en temps réel les données relatives au trafic par l'application de moyens techniques et obliger un fournisseur de services à intercepter les données relatives au contenu sans divulguer le déroulement d'une telle opération à la personne ou à l'entité surveillée.

Alors, si le ministre Balgobin - je l'ai bien écouté - a dans son discours pris comme argument que la collecte en temps réel de données relatives au trafic existait déjà dans la *Computer Misuse and Cybercrime Act* de 2003 à l'Article 15, repris aujourd'hui à l'Article 29 du projet de loi actuel, il n'a pas précisé que l'interception de données relatives au contenu, objet de l'Article 30 du présent projet de loi, ne figurait pas dans la loi 2003. J'attendrai, donc, que le ministre vienne nous expliquer, dans son discours de clôture des débats, comment et par qui se fera cette interception de données relatives au contenu, notamment pour intercepter et exploiter les données relatives au contenu de communications chiffrées de bout en bout, ce que nous appelons communément le *end-to-end encryption*, ce qu'utilisent, par exemple, l'application mobile WhatsApp, que nous utilisons tous dans cette Chambre, à l'exception du ministre Toussaint, je l'ai entendu le dire. Comment se fera le décryptage dans le cadre d'une enquête ordonnée par un juge en Chambre ? Quel est le dispositif technique qui permettra de réaliser ces opérations sur le territoire mauricien ? S'agit-il du même outil technologique qui avait été sommairement décrit dans le document consultatif de l'ICTA et catégoriquement rejeté par Facebook, Google et Mozilla ? Est-ce que l'utilisation de logiciels espion, comme par exemple le logiciel israélien Pegasus, sera autorisé pour surveiller un suspect ? Quelles sont les données

informatiques précisément concernées ? Les courriers électroniques, les messages instantanés, les fichiers numériques, les mots de passe, les données bancaires, les sauvegardes sur le *cloud* informatique ? Et qu'en est-il des informations échangées au niveau *corporate* entre les entreprises mauriciennes ou avec l'étranger ? Quelle sera la durée de stockage des données enregistrées ? Qui pourra avoir accès à ces données ? Quels sont les garde-fous prévus contre une utilisation abusive et répressive de ces nouveaux moyens techniques qui pourraient cibler les opposants au pouvoir dans un contexte où la liberté d'expression et la liberté de la presse sont souvent malmenées, où la *Freedom of Information Act* n'existe pas, et que la République de Maurice a été catégorisée par l'Institut Suédois, V-Dem comme une autocratie ?

M. le président, dans l'introduction explicative de ce projet de loi, le premier objectif mentionné est d'augmenter la conformité du cadre légal mauricien par rapport à la convention de Budapest ratifiée par notre pays en novembre 2013 sous le régime Travilliste grâce à l'impulsion du ministre des TIC de l'époque, Tassarajen Pillay. Et d'ailleurs, puis-je rappeler, M. le président, et probablement informer la jeune génération qui m'écoute cet après-midi, que le ministère même de la Technologie, de l'information et la communication a été créé en 1997 - alors que le ministre actuel et moi-même étions encore sur les bancs du collège - par le gouvernement du Dr. Navin Ramgoolam qui a voulu démocratiser l'accès à Internet et faire de ce secteur un nouveau pilier de économie mauricienne.

La convention de Budapest de 2001 est le premier traité international sur la cybercriminalité et s'il est vrai que l'Article 21 de cette convention traite de l'interception des données relatives au contenu, ce même Article précise qu'il concerne, et je cite –

« un éventail d'infractions graves ».

Dans la version anglaise de la convention –

“a range of serious offences”.

Et ce détail sur la gravité ou le *seriousness* des infractions a complètement disparu dans l'Article 30 du projet de loi présenté par le ministre Balgobin. Et nous savons tous quelles sont les affinités entre le diable et les détails.

À l'inverse de la convention de Budapest, nous nous retrouvons avec un projet de loi qui offre la définition la plus vague et la plus vaste possible de ce qu'est un préjudice et avec une

approche entièrement subjective de ce que pourrait être un contenu indésirable. Si ce projet de loi est adopté en l'état, il viendra, je le crains, M. le président, créer un nouveau secteur sombre de l'économie mauricienne à savoir la construction de centres de détention pour enfermer des centaines d'individus que l'on aura si facilement condamnés pour avoir publié ou partagé un contenu jugé chagrinant par un puissant, ou pour une information troublante qui manquerait de précision.

Et sans parler d'un cruel manquement dans cette législation en ce qui concerne le respect du principe de proportionnalité demandé à l'Article 15 de la convention de Budapest. Principe selon lequel une peine doit être proportionnelle à la gravité de l'infraction et au degré de responsabilité du délinquant. 20 ans d'emprisonnement, M. le président, pour la mauvaise utilisation d'un faux profil, le double de la peine prévue par *l'ICT Act*. C'est forcément un bug qui s'est introduit dans le logiciel de ce projet de loi.

M. le président, pour terminer je souhaiterais dire qu'en tant que législateur, nous avons une responsabilité envers les victimes actuelles et potentielles de la cybercriminalité. Nous devons les sensibiliser, les protéger et les encadrer, et je pense notamment à nos plus jeunes et à nos enfants. Je le redis, donc, nous avons besoin d'une mise à jour de notre arsenal légal pour faire face aux dernières innovations informatiques qui se retrouvent détournées par les réseaux criminels. Ce projet de loi dans son objectif est nécessaire mais il s'avère dangereux dans son application. Nous devons, donc, le débayer afin de le rendre plus précis, plus raisonné, plus juste et ainsi plus efficace en matière de cyber sécurité. Le numérique est clairement devenu un nouveau champ de bataille où les cybercriminels sont capables de mettre en danger non seulement la sécurité des individus et des entreprises mais aussi celle de l'État. Nous pouvons, donc, parler d'une cyber guerre. Et cette guerre, nous devons tout faire pour la gagner. Mais en la gagnant, prenons garde de ne pas perdre ce que nous avons de plus précieux et de plus fragile au cœur même de notre société, le respect de notre fondamentale liberté.

Je vous remercie, M. le président.

The Deputy Speaker: Thank you very much. Hon. Ms Tour, please!

(4.22 p.m.)

Ms J. Tour (Third Member for Port Louis North & Montagne Longue): M. le président, tous grands textes de loi font l'objet de commentaires et de critiques. Cela nous permet d'élargir, d'expliquer, de préciser leurs contenus, et de rectifier certaines perceptions. Et, là, je tiens à féliciter mon collègue, l'honorable Deepak Balgobin, d'être venu de l'avant avec ce *Bill* à un moment où les citoyens mauriciens sont de plus en plus victimes de cybercriminalité.

M. le président, de janvier 2020 à janvier 2021, plus de 2000 plaintes enregistrées. Je tiens à le saluer aussi pour sa présentation de ce texte de loi. Lors de son intervention la semaine dernière, il a éclairé la population avec précision sur ce texte de loi et il a aussi démontré une bonne maîtrise de son projet en défendant avec perspicacité les différentes provisions de cette loi.

M. le président, à l'heure où je vous parle, ce projet de loi a été longuement débattu. Je serai, donc, très brève dans mon intervention. Il s'agit pour moi d'emmener mon humble contribution à ce projet de loi en tant que jeune parlementaire quand je trouve que ce texte de loi prend toute son importance dans l'ère à laquelle nous évoluons. Ce *Cybersecurity* et *Cybercrime Bill* est un texte novateur pour Maurice. C'est un projet de loi adapté à la nouvelle normalité dans un monde où le cyber espace prend de plus en plus d'importance dans nos vies quotidiennes. Les gens, et surtout les jeunes et les enfants, passent de plus en plus de temps sur l'ordinateur notamment avec le *Work From Home* et l'*Online Schooling*, sans compter plus de jeunes qui étudient et qui travaillent dans le domaine. Mais l'Opposition fait semblant de ne pas comprendre ces enjeux essentiels. Ils essayent même de créer de fausses perceptions autour du texte de loi en faisant croire, par exemple, que c'est juste un moyen pour museler les citoyens et leur priver de leur droit d'expression. Alors que, bien au contraire, il ne s'agit pas de museler mais de protéger. Il est donc important de rectifier les perceptions et que l'on comprenne bien que ce texte de loi est surtout un ensemble cohérent de dispositifs qui sont des mesures de protection et de guide.

M. le président, ceux qui crient au loup et qui demandent aux jeunes de prendre garde, mais prendre garde de quoi ? Comment ? Ne faut-il pas un mode d'emploi pour circuler en toute sécurité sur le cyberspace ? Nous avons besoin de paramètre, de garde-fou pour circuler sur les autoroutes de l'information. Nous allons, donc, voir comment ce nouveau projet de loi est d'une

part un véritable mode d'emploi mais aussi un outil important de gouvernance en ce qu'il constitue une avancée en matière législative pour Maurice.

Tout d'abord, qu'est-ce que la cybersécurité ? C'est l'organisation des ressources, des processus et structures pour protéger le cyberspace, ses utilisateurs et les systèmes qui opèrent dans cet espace. Ainsi donc, il s'agit avec ce projet de loi que propose le gouvernement de mettre en place des structures pour protéger la cybersécurité de Maurice, parce que Dieu merci, jusqu'à maintenant, on n'a jamais eu de cyber attaque majeure sur le pays mais il faut être paré à une telle éventualité.

Pour cela, M. le président, la *Cybersecurity and Cybercrime Bill* va venir mettre en place des structures, des infrastructures, des procédures en matière de cybersécurité pour réduire et prévenir les risques mais aussi fournir une réponse rapide et efficace en cas d'urgence en matière de cybersécurité. Par exemple, les parties 2, 5 et 6 du projet de loi parlent des infrastructures de protection avec la mise en place d'un comité, le *Computer Emergency Response* aux sections 38 à 39 ; des procédures d'investigations aux sections 26 à 32 et de nouvelles politiques publiques, un *National Cybersecurity Committee* qui aura pour mission de conseiller le gouvernement en matière de cybersécurité et de cybercriminalité aux sections 3 à 6 de la loi.

Nous devons donc saluer, M. le président, tout le travail en amont pour aboutir à la rédaction d'un tel projet de loi qui est très élaboré et qui vise à doter le pays d'un outil législatif de pointe en matière de cybersécurité en phase avec les besoins de notre époque. Quand nous examinons la section 36, *Critical Information Structure* et la section 34, *Protection of Critical Information Structure*, nous comprenons que nous avons un gouvernement proche du peuple et qui a à cœur la protection des intérêts des citoyens. Ces sections prévoient, en effet, de nouvelles provisions pour la sécurisation et la protection des services essentiels comme l'eau et le système de santé et le service financier contre des cyberattaques ou contre des dégâts liés à des désastres et prévoient la protection des données, la récupération des données en cas d'incident ou de catastrophe et la prévention des risques sur les données. Mais l'Opposition ne voit pas cela. Pour l'Opposition, critiquer ce texte de loi, c'est encore un autre moyen de faire de la politique. Mais s'ils s'arrêtaient un moment pour lire ce texte de loi, s'ils étaient fidèles à leur engagement solennel à servir le peuple, ils se rendraient compte de l'importance de protéger les citoyens car ce n'est pas dans les films seulement que l'on voit les cyberattaques. Si des attaques de ce type

ciblent Maurice, les membres de l'Opposition seront les premiers à venir crier que le gouvernement n'a rien fait pour protéger le pays.

Ce projet de loi, M. le président, est loin d'être un outil punitif ou encore un moyen pour museler les citoyens mais c'est surtout un outil de protection.

Certains membres de l'Opposition devraient arrêter de déformer les provisions de cette loi pour semer la panique auprès des mauriciens. Il est important de savoir comment circuler en toute sécurité sur les réseaux sociaux. Nous avons besoin de paramètres à la fois pour ne pas se mettre en danger et ne pas mettre en danger les autres et éviter des infractions.

M. le président, pour les citoyens, ce projet de loi est un mode d'emploi qui permettra d'apprendre comment circuler sur les autoroutes de l'information, à la fois pour mieux se protéger des attaques mais aussi pour savoir comment s'exprimer. C'est un outil pour améliorer la civilité des citoyens. Prenons par exemple les jeunes qui se tournent vers des métiers et un tas de nouvelles activités dans le cyberspace, ce texte leur fournira des paramètres, des guides pour savoir comment naviguer dans cet environnement. Dans la même logique, ce projet de loi identifie de nouveaux délits comme le *cyberbullying*, l'usage de *fake profile* pour faire du tort aux autres et la *revenge pornography*.

Même si un citoyen ou un journaliste veut critiquer le gouvernement, il a le droit de le faire. A aucun moment dans la loi, il n'est dit que vous n'avez pas le droit de vous exprimer, contrairement à ce que veut faire croire l'Opposition, que l'on veut interdire aux gens de s'exprimer sur la toile. Il s'agit par contre d'empêcher de faire du mal à autrui. Est-ce ce que veut l'Opposition, de continuer de faire mal aux autres sous la couverture des *fake profiles* ? Est-ce que c'est ça leur démocratie ?

M. le président, quand une personne se promène dans la rue, quelqu'un vient, la frappe et lui arrache son sac, nous sommes d'accord pour dire qu'il faut une loi pour la protéger. Sur l'internet, c'est pareil. Doit-on laisser faire les personnes qui se cachent derrière des *fake profiles* pour agresser les autres et les maltraiter ? Un *cybercrime* c'est aussi un crime ; ça blesse, ça fait du mal, ça détruit autant qu'un autre crime. Alors pourquoi ne faudrait-il pas des lois pour protéger contre ce genre d'offense ? Certains trouvent que 20 ans de prison pour ceux qui utilisent un *fake profile* pour faire du mal aux autres, c'est une peine trop lourde, alors que ces délinquants virtuels détruisent bien réellement la vie des personnes, ils détruisent des familles, ils

détruisent des carrières et cela peut même conduire au suicide dans certains cas. Du jour au lendemain, une fausse information diffusée par un *fake profile*, une personne peut complètement être détruite. Pour l'opposition, c'est normal et l'auteur de ce crime devait pouvoir continuer à courir librement dans la nature avec une peine légère ! Et là encore, M. le président, certains n'ont pas manqué une occasion de déformer cette provision de la loi faisant croire que c'est systématique si l'on s'exprime mal sur la toile, on en a pour 20 ans de prison, alors que cette provision le dit clairement, *up to 20 years*. Moi, je pense que c'est leur façon à eux de semer la terreur et d'empêcher aux gens de s'exprimer. Prenons la section 16 – *Misuse of Fake Profile* qui dit qu'on n'a pas le droit de se servir d'un *fake profile* pour faire du tort aux autres. Cette loi n'interdit pas de créer un *fake profile*. Vous avez toujours le droit de continuer à utiliser un *fake profile* mais vous n'aurez pas le droit de vous en servir pour faire du mal aux autres.

M. le président, la section 17 – *Cyberbullying* permettra de responsabiliser les internautes, par exemple, sur le fait que si on participe à du *cyberbullying* en groupe, on est co-responsable du délit. A noter que les sections 16 à 19 vont ensemble car souvent certains se cachent derrière des *fake profiles* pour agresser les autres, leur extorquant de l'argent ou les mener à poster des photos pornographiques. Donc, ces sections viennent protéger les citoyens surtout les femmes et les enfants.

M. le président, en 2014, sous le gouvernement MSM, la République de Maurice a signé la Convention de Budapest pour combattre la cybercriminalité. En d'autres termes, une Convention qui permet aux États signataires de se donner les moyens de combattre la cybercriminalité tout en respectant les droits fondamentaux des citoyens. Ce n'est pas le gouvernement qui le dit, ce n'est pas le MSM qui le dit, c'est la Convention de Budapest. Donc, Maurice, ayant signée cette Convention, nous avons maintenant travaillé pour mettre en place le cadre législatif qui va avec pour aligner Maurice avec les principes et les objectifs de la Convention. Ce qui est intéressant dans cette démarche et qu'il faut bien comprendre, c'est que quand on fait l'effort de s'aligner sur les Conventions et les *guidelines* internationaux, se faisant, nous permettons au pays de progresser et d'avancer et c'est ce que nous faisons en votant cette loi, nous réalisons une grande avancée en matière législative.

Ce projet de loi, M. le président, permettra à Maurice d'être propulsée parmi les nations modernes qui respectent à la fois la loi à la liberté d'expression et la protection des citoyens. Et

pour en revenir aux sections qui pénalisent l'usage de *fake profiles* pour faire du mal aux autres et les *cyberbullies* qui agissent en groupe, il faut bien voir que ce sont eux qui empêchent les citoyens honnêtes d'exprimer leurs opinions en venant les menacer et les museler avec leur cyberattaque. Comme le dit bien la Convention de Budapest, il s'agit de réaffirmer le droit de chacun à exprimer ses opinions sans interférence et c'est ce que fait cette nouvelle loi, c'est bien de protéger les citoyens qui veulent s'exprimer sans interférence contre les attaques et des *cyberbullies* et des *fake profiles* qui sèment la terreur sur les réseaux sociaux. D'ailleurs, M. le président, les citoyens mauriciens ont joué un rôle actif dans l'élaboration de la loi.

Le projet de loi a fait l'objet de beaucoup de commentaires, ce qui a permis de prendre en considération les besoins des citoyens, les critiques entre autres. Ainsi, le débat public a permis d'expliquer, d'élargir, de préciser certains points car grâce aux critiques qui remontent, on arrive à formuler un texte pour le bénéfice de tout le monde.

Pour conclure, M. le président, avec cette nouvelle loi, il y a beaucoup d'honnêtes citoyens qui voulaient s'exprimer mais qui n'osaient pas le faire, ils pourront enfin s'exprimer sur les réseaux sociaux. Ce texte de loi n'est pas réservé aux juristes ou aux politiciens juristes, c'est un texte de loi claire au langage compréhensible pour le grand public, accessible à tous. Donc, j'invite les citoyens à aller le lire. Cette loi est en ligne avec la philosophie du gouvernement de faire de Maurice une île inclusive pour tous, le contenu mais aussi la rédaction de ce texte de loi qui est claire et accessible vient réaffirmer cette volonté du gouvernement dans le domaine des réseaux sociaux. Dans un environnement mouvant et contraignant et porteur de risques divers, le gouvernement ne se contente pas seulement d'amender des lois mais il vient de l'avant avec de nouvelles lois, ce qui montre le dynamisme législatif du Parlement mauricien.

L'objectif des pouvoirs publics en matière de cybercriminalité, c'est d'équilibrer la maximisation des bénéfices apportés par la technologie d'un côté et de l'autre de minimiser les risques liés à la sécurité, ce qui suppose que cette balance bénéfice-risque concerne plusieurs catégories de la nation, les citoyens mais aussi les entreprises et aussi l'État. Ce projet de loi est donc très moderne et sophistiqué puisqu'il vient non seulement réglementer l'usage des réseaux sociaux pour les utilisateurs mais il vient aussi mettre en place un dispositif de protection et une stratégie pour cette structure de protection avec la mise en place d'un *Computer Emergency Response Team* et d'un *Cybersecurity Committee*, c'est-à-dire que le gouvernement est en train

de doter le pays, grâce à cette loi, d'une structure de gouvernance en matière de cyber sécurité et de cybercriminalité.

Je vous remercie pour votre attention, M. le président, et je recommande vivement ce projet de loi à la Chambre.

The Deputy Speaker: Thank you! Hon. Ms Joanna Bérenger!

(4.37 p.m.)

Ms J. Bérenger (First Member for Vacoas & Floréal): Merci, M. le président, de me permettre d'intervenir quelques minutes sur ce nouveau projet de loi qui concerne donc la cybercriminalité et la cybersécurité et qui est supposé aider à mieux combattre la cybercriminalité comme nous a dit le ministre. Il y a certes des sections qui ont leur raison d'être, mais il a des sections qui sont dangereuses et surtout on a beau chercher mais on ne voit pas de mesures additionnelles préconisées pour améliorer les techniques d'investigation ou pour faire en sorte que les enquêtes durent moins longtemps. Je dis 'mesures additionnelles' parce qu'il faut rappeler que la grande majorité des mesures préconisées dans ce projet de loi existent déjà sous le *Computer Misuse and Cybercrime Act, 2003*.

Je vais donc passer assez rapidement sur les sections qui posent problème et je commence par le terme qui dérange de manière unanime, c'est-à-dire la définition du terme 'harm' qui est tellement large qu'il pourrait être utilisé dans n'importe quel contexte, ce qui est évidemment totalement inacceptable puisque cela ouvre la porte à tous les abus et ici, je voudrais répondre à l'honorable Mayotte qui disait juste avant moi que mon collègue de parti, l'honorable Uteem, comparait ce qui n'était pas comparable, comparait le terme 'annoyance' à 'harm' alors que ce n'est pas la définition elle-même que l'on compare. On sait très bien que ce sont deux définitions qui veulent dire deux choses différentes mais c'est le manque de précision dans ces deux termes qui est comparable.

L'abus de termes trop vagues, M. le président, il y en a eu sous ce même gouvernement comme l'ont rappelé tous les orateurs avant moi. Et je le rappelle, au MMM nous condamnerons toujours toute forme de dénigrement y compris sur les réseaux sociaux mais certaines personnalités publiques n'ayant pas apprécié des opinions, ayant vu leur égo être blessé par des vérités exposées par les internautes n'ont pas hésité à abuser du terme trop vague justement qui

était celui de ‘*annoyance*’ dans l’espoir de traumatiser des internautes et pour essayer de museler l’opinion publique.

Durant les trois dernières années, pas moins de 10 personnes ont été arrêtées pour avoir enfreint l’ICTA, dont deux arrêtées et emprisonnées pour avoir fait des mèmes. Des mèmes, selon le dictionnaire d’Oxford, c’est ce qu’on appelle des images humoristiques. Pour avoir fait des mèmes, donc des images humoristiques sur le Premier ministre, deux personnes ont été arrêtées et emprisonnées. Alors que de l’autre côté, comme l’a mentionné le ministre des TIC, des hommes ont circulé des photos de femmes nues sans leur consentement et d’enfants également et ceux-là profitent encore de leur liberté aujourd’hui, ceux-là courent toujours les rues, représentent toujours un danger, continuent de créer encore d’autres et d’autres groupes sur l’application Telegram pour échanger ces images indécentes alors que de nombreux indices permettent de situer les responsables.

C’est quand même incroyable cette politique de deux poids deux mesures et combien les arrestations peuvent se faire rapidement dépendant de la personne qui est à l’origine de la plainte, dépendant de sa proximité avec le gouvernement. Heureusement par la suite, le jugement Seegum qui a été cité avant moi, a mis en lumière l’anti-constitutionnalité de ce terme ‘*causing annoyance*’, ce qui a quand même il faut dire calmer quelques ardeurs. Je ne vais pas revenir en profondeur sur ce jugement mais je vais quand même citer un extrait qui dit, je cite –

“(...) the legislator should have ensured that the said section which is a criminal provision has the quality of predictability and certainty, the more so when it limits the right to freedom of expression.”

Et qu’est-ce que le gouvernement vient proposer, ici, à travers ce nouveau terme ‘*harm*’ ? Est-ce qu’il vient proposer quelque chose de *certain* ? Est-ce qu’il vient proposer quelque chose de *predictable* ? Au contraire, une taquinerie qui peut paraître anodine pour la plupart pourra être définie comme ‘*harm*’ pour certains. Donc, il est regrettable que le gouvernement n’ait pas tiré les leçons de ce jugement puisque quels sont les garde-fous ici face aux éventuels abus ? *If harm has been done, who will assess its mental impact? Who will decide if there was ill-treatment? What is neglect?*

Dans d’autres pays il y a une méthodologie bien précise à suivre pour arriver à conclure s’il y a eu effectivement ‘*harm*’. Ce n’est pas fait n’importe comment, il y a une évaluation

préliminaire qui est faite concernant le contenu en question lui-même mais aussi le comportement de la personne qui en est à l'origine. Il est obligatoire d'évaluer le comportement de la personne en général et de le comparer à certains standards raisonnables et crédibles avant d'arriver à tirer des conclusions, avant d'arriver à prendre des actions mais ici il n'y a aucun garde-fou et il faut des garde-fous, il en va de notre démocratie et de nos libertés fondamentales.

La deuxième partie du projet de loi introduit le *National Cybersecurity Committee*. Encore une fois, totale opacité sur le mode de fonctionnement de ce comité qui sera, rappelons-le, sous l'égide d'un *Chairman* nommé par le Premier ministre. Le Premier ministre qui aura donc à nouveau la mainmise alors qu'on ne cesse de le répéter que de manière générale beaucoup trop de pouvoir sont mis dans la main d'un seul homme. Ce comité n'aura aucune indépendance, sera à la merci du gouvernement et pourtant les décisions que prendront ce comité impacteront tous ceux et celles qui utilisent Internet. Donc, les mauriciens et mauriciennes ont le droit de savoir qu'est-ce qui régira le fonctionnement de ce comité, qui aura le dernier mot. D'autant plus que parmi les fonctions de ce comité on peut voir qu'il peut, je cite –

“perform any other relevant function conferred on it under this Act or any other law.”

Et ici, il y a donc danger. À côté de cela, M. le président, il faut le dire, si ce ne sont pas des conseils, ce sont des comités qui se multiplient. Cet énième comité s'apparente à encore du gaspillage de l'argent des contribuables puisque ces fonctions pouvaient être exercées par d'autres structures similaires qui existent déjà et l'on y voit donc difficilement une autre raison pour sa création que celle de pouvoir y placer les copains, les copines et les autres amis d'enfance.

En troisième partie, nous avons les infractions et ce projet de loi prévoit 11 nouvelles infractions. Le ministre nous a dit que ces nouvelles infractions vont augmenter notre résilience. Mais comment est-ce que ces infractions vont décourager la criminalité sur Internet quand on sait que, comme l'a dit le ministre, les cybers criminels sont de plus en plus déterminés ? Comment la simple existence de ces nouvelles infractions va faciliter la mise en application de la loi ? Parce qu'il est là le vrai problème.

Le gouvernement peut créer des milliers et des milliers de nouvelles définitions d'infractions s'il le souhaite, mais ça ne changera rien si les techniques d'investigation restent les mêmes et si les officiers restent sous-équipés. Ma suggestion est, donc, de focaliser davantage

sur la formation pour améliorer les techniques d'investigation des officiers sur le matériel qu'ils ont à leur disposition et de les rendre plus *accountable* également.

Concernant la section 16 – *Misuse of fake profile*. Concernant l'utilisation même de faux profils, bien évidemment que nous sommes d'accord qu'un faux profil ne doit pas être utilisé pour faire du tort. Mais, M. le président, j'aimerais éclairer la ministre de l'Égalité des genres et du bien-être de la famille, qui, mardi dernier, nous disait qu'il ne peut y avoir d'autres raisons pour les personnes qui utilisent des pseudonymes sur Facebook que de vouloir faire du tort et de circuler de fausses informations. Quel toupet de venir ensuite accuser l'Opposition de faire de la démagogie et je regrette que la ministre en question ne soit pas là ! C'est ça de la démagogie ! C'est trop facile de venir dire que tous ceux qui utilisent des pseudonymes ont de mauvaises intentions, donc, hop, il faut leur enlever la liberté d'expression ! Peut-être que la ministre n'en a pas conscience, mais de nombreuses personnes n'ont pas le choix que d'utiliser des pseudonymes pour pouvoir s'exprimer, soit parce qu'elles sont fonctionnaires et qu'elles ont peur des représailles, soit parce qu'elles sont terrifiées par le climat dans le pays, et il y a de quoi. Avec des agents politiques qui disparaissent, des morts mystérieuses ici et là, des arrestations arbitraires, certains internautes ont de quoi être terrifiés par le climat dans le pays ! Et ces internautes qui n'ont pas forcément de mauvaises intentions préfèrent, donc, utiliser des pseudonymes pour pouvoir s'exprimer. Et c'est important qu'ils puissent le faire, mais bien évidemment en respectant des limites, et c'est là où le terme '*harm*' pose problème - comme je l'ai évoqué. C'est pour cette raison aussi que le terme '*harm*' doit être mieux défini. Et aussi, pour rappel à la ministre de l'Égalité des genres et du bien-être de la famille, en cette Journée mondiale de la prévention des agressions sexuelles sur les enfants - malheureusement, elle n'est pas là, comme je viens de le dire - j'aimerais lui rappeler que le *Children's Act* n'a toujours pas été proclamé, donc, nous ne sommes toujours pas alignés avec nos engagements internationaux, et que si elle voulait vraiment la protection de nos enfants, elle aurait permis la proclamation des sections qui sont applicables et elle n'aurait pas attendu que le *Children's Court* soit prêt.

Ensuite, la section 17, à ce niveau, on n'a rien à reprocher à la section de *Cyberbullying*, quoi que là encore, il aurait fallu que ce soit mieux défini. M. le président, je voudrais juste rappeler qu'avant de vouloir réguler le *bullying* sur Internet, il faudrait que l'exemple commence, ici, dans cette Chambre.

Ensuite, avec la section 23 - *Failure to moderate undesirable content*, je pense qu'il est important de rappeler l'épisode du *Consultation Paper* de l'ICTA. Plusieurs l'ont fait avant moi, mais je me dois de le rappeler, qu'en avril dernier, ce *Consultation Paper* tentait de filtrer les contenus sur les réseaux mais avait, évidemment, déclenché un tollé dans l'opinion publique. Et en réalité, plusieurs sections de ce projet de loi, les sections 11, 23, 29 et 30 ont toujours la même intention, ont toujours le même esprit, c'est-à-dire, filtrer, intercepter les données des internautes pour contrôler les réseaux sociaux. Mais, ici, dans ce projet de loi, on essaie de le faire de manière déguisée en se cachant derrière la cybercriminalité. On lit, donc, à la section 23, que les administrateurs de comptes, ici on parle de comptes Facebook mais aussi des services de messagerie et d'échange en ligne comme WhatsApp, Twitter, Telegram, Instagram, TikTok, enfin, bien sûr, Facebook également. Les administrateurs de comptes, donc, y compris les médias, se verront risquer une amende de un million de roupies, de 20 ans de prison s'ils n'ont pas su contrôler des commentaires qui auront donc été jugés comme indésirables par une autorité investigatrice. Je suis très étonnée quand j'entendais le ministre dire que cette section est très claire. Est-ce qu'il trouve que le terme '*deceptive*' est clair ? Est-ce qu'il trouve que le terme '*inaccurate*' est clair ? Encore une fois, ce sont des termes beaucoup trop vagues qui ouvrent la porte aux abus. On retrouve ici le même problème qu'avec le terme '*harm*', d'autant plus, que ce n'est absolument pas aux autorités investigatrices de décider ce qu'est un contenu indésirable ou pas. C'est un grand danger que de mettre ce pouvoir dans les mains de la police et ce n'est pas son rôle. Mais, par contre, c'est notre rôle à nous, en tant que patriotes, justement de venir tirer la sonnette d'alarme quand il y a danger d'abus. Dans un pays où des citoyens ont été arrêtés pour avoir fait des images humoristiques, il est fort probable qu'avec des termes aussi opaques on doive s'attendre à des arrestations tout aussi ridicules et arbitraires que l'on a vues sous l'administration de ce gouvernement ces dernières années.

Et bien évidemment, M. le président, je regrette fortement qu'il n'y ait pas eu de consultation publique avant la présentation de ce projet de loi. Mais à travers justement le *Consultation Paper* de l'ICTA qui voulait filtrer les données en ligne, les Mauriciens et Mauriciennes ont rejeté en masse cette mesure. Les Mauriciens ont rejeté cet esprit de censure et, notamment, à travers une pétition en ligne qui avait été signée par pas moins de 22,964 Mauriciens et Mauriciennes. Une véritable levée de boucliers donc, et il leur a fallu faire marche arrière. Mais il semblerait, comme je disais, que ce soient ces mêmes mesures dangereuses et

abusives que le gouvernement essaye, ici, d'implémenter dans une nouvelle loi, à travers les sections que j'ai mentionnées mais aussi à travers l'Article 29 et l'Article 30. L'Article 29 vient autoriser les autorités à contrôler, collecter les données sur Internet en temps réel, ce qui était un autre but du *Consultation Paper* de l'ICTA en avril dernier, c'est-à-dire, décrypter et archiver le trafic sur les réseaux sociaux avec l'aide du fournisseur de service, et là, maintenant, avec ce projet de loi, ça pourra se faire en toute confidentialité. Le ministre des TIC est venu justifier cette section en venant dire qu'à l'époque des débats sur le *Computer Misuse and Cybercrime Act* de 2003, le MMM était d'accord. Mais le gouvernement n'est plus le même ! À l'époque, personne n'imaginait que des arrestations arbitraires comme on n'en a vu pouvait se faire. Aujourd'hui, la population ne fait plus confiance à ce gouvernement.

That this kind of law already exists in some form does not stop the situation from being highly worrying given the type of arrest made so far in this country. Once computers and phones are in the hands of authorities, they can plan whatever they like on there and get people arrested. This is a risk that must be taken into consideration. However, this measure can also be a good step towards securing data, but we still need a 'Freedom of Information Act', which was an electoral promise made by *L'Alliance Lepep* since 2014. We are still waiting for it! A 'Freedom of Information Act' will enable the population to access their own data generated and collected by private companies, local and foreign, and will enable people to have a better control on their own data and its security.

Finally, Mr Deputy Speaker, Sir, I wish to ask, what is the cybersecurity standard here? I have done some research and I have seen that in many countries there are cybersecurity standards that are utilised to protect the cyber environment.

For instance, in the United States of America there is the National Institute of Standard and Technology for Cybersecurity Framework (NIST). Obviously, the principle objective of using those techniques is to reduce the risks, including prevention or mitigation of cyberattacks; that a cybersecurity standard be clearly defined is my suggestion here, and this could be taken care of by an independent cybersecurity authority. We need to make sure the law gets the right standard to secure data. But this Bill does not say anything about those techniques and what will be the standards, so, we hear that nothing will improve in practice. Therefore, as my colleagues explained, certain sections of this Bill give us the impression that this Bill's job is only to expand

the scope of cybercrime and reclassify crimes committed under the breach of ICTA as cybercrime. *Et c'est pourquoi je pense qu'il est important que le Select Committee proposé par l'honorable Bodha avant moi soit mis sur pied puisque nous sommes d'accord sur quasiment la moitié de ce projet de loi. Nous sommes d'accord sur l'impératif de créer de nouvelles infractions pour être à jour avec notre époque, sur l'impératif de protéger les plus vulnérables.*

Mais l'autre moitié du projet de loi est à discuter comme, par exemple, le manque de précision de certains termes, le filtrage des réseaux sociaux qui n'a pas sa place dans ce projet de loi contre la cybercriminalité, les peines qui sont disproportionnées, le manque d'indépendance de l'autorité qui est en train d'être créé, l'absence de cadre, l'absence de méthodologie. Et, donc, c'est typiquement la situation où un *Select Committee* aurait toute sa raison d'être. Les *Select Committees* sont régis par la section 60 des *Standing Orders* et ce *Select Committee* ferait donc des recommandations, soumettrait un rapport où il proposerait des amendements et ces amendements seraient soumis à l'approbation du Parlement. Parce que oui, bien évidemment, que nous sommes contre toute forme d'abus et de fraude sur internet et nous le serons toujours, mais il ne faut pas se tromper de combat. Le combat est contre la cybercriminalité, pas contre ceux qui expriment des opinions contraires à celles du gouvernement. Donc, pour que cette lutte soit juste et efficace, il faut un cadre adapté, des officiers mieux outillés et surtout des garde-fous, c'est-à-dire la garantie que les droits fondamentaux des mauriciens et des mauriciennes seront respectés.

Je vous remercie.

The Deputy Speaker: Thank you very much. I will suspend for 30 minutes.

At 4.56 p.m., the Sitting was suspended.

On resuming at 5.39 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Thank you very much. Please be seated! Hon. Mrs Luchmun Roy, please!

(5.39 p.m.)

Mrs S. Luchmun Roy (Second Member for Port Louis North & Montagne Longue): Thank you, Mr Deputy Speaker, Sir. Listening to Members on the other side of the House, I am still wondering whether they were reading the same Bill as proposed by the Minister in this

House. Well, as it is a fact here, we are allowed to rebut what the precedent orators said, so, I would like to clarify few points.

The hon. Member who spoke right before me mentioned about Consultation Papers and everything, which has absolutely nothing to do with this Bill. So, I think it is very good to take note of this. While she was talking, someone just sent me a screenshot, which is a fact. Like hon. David mentioned, like we are talking right now, we are live on everyone's mobile, on the net, people are commenting, people are bullying us. She was mentioning about, I think, Section 16 and I got a screenshot, someone asking me where is the word 'arm' in this Bill? I tried to look for it, even my colleagues tried to find it in this Bill but there is no word 'arm' but there is the word 'harm.' People were bullying her outside. So, this is what we are talking about right now.

She also mentioned about *l'humour*, being humoristic about memes, even giving a description from I do not know which dictionary, but should I remember this House about the tragic episode – *Charlie Hebdo*. I am sure we are all aware what happened. It was just a joke, just a *caricature* which caused the death of so many people. So, we need to know where our freedom stops, Mr Deputy Speaker, Sir.

While listening to the debates of seasoned Members from both sides of the House, if there is a word which comes up regularly, it was *liberté de la presse, liberté d'expression*. And if there is one hon. Member who mentioned, who did a very good speech and it really helped me actually to understand what was happening on the other side of the House, was hon. Assirvaden, who thankfully is here. So, I quote what he said –

“dangeureux et de malicieux.”

This is how he classifies this Bill.

He goes further to say that this Bill has been presented by the hon. Minister “*en catimini*.” I do not understand what the meaning of ‘*catimini*’ is when you are here in an august Assembly, sharing a Bill in front of everybody, it is live. So, what is *catimini*? No, it was public! It is a debate going on. So, there is no *catimini* going on right now.

Moving on, there is another hon. Member who mentioned about being bugged but I think there is a bug in the memory of some hon. Members on the other side because they have

selective approach towards this Bill. The hon. Member Assirvaden mentioned about Section 23, I quote –

« À la section 23 : failure to moderate undesirable content. Failure pour les radios, la presse en ligne, selon ce que les ministres nous ont dit jusqu'ici, les radios en ligne, la presse en ligne vont devoir censurer - les mots des orateurs, M. le président. »

Let me just go back in time. Let me just refresh the memories of Members on the other side. It was 08 November 2007. *La Une de l'Express* - « Maurice censure le site communautaire «Facebook.» En 2007 ! During that article, it is mentioned, I quote –

« L'on ne joue pas avec l'image publique du Premier ministre, Navin Ramgoolam. Facebook, le premier site communautaire au monde avec 46 millions d'adhérents, l'a appris à ses dépens. Son accès a été bloqué à tous ceux qui voulaient y accéder depuis Maurice pendant une partie de la journée(...) »

Carrément! This is what we say *museler!* So, *liberté d'expression*, let us talk about it!

Talking about *liberté d'expression*, we came here with a Consultation Paper, we are here with the Bill where we can debate. This is *la démocratie* as we say it! But what was it? *Carrément*, we remove Facebook! ICTA also said that you cannot play. Because do you know what happened on that day? There was a fake profile with the picture of the then hon. Prime Minister and that is why they chose - ICTA said, I quote –

« L'ICTA affirme que le site is currently hosting contents of defamatory nature, d'où la décision d'en faire bloquer l'accès - selon Trilock Dwarka, Chairman de l'ICTA à l'époque. »

Talking about Freedom of Expression, talking about *liberté de la presse!* Let me remind Members on the other side of the House, *le harcèlement des médias sous le régime PTR!* Should I remind the hon. Members on the other side of the House of the many *arrestations* when they were in power? *En 2007*, three journalists were arrested *pour diffusion de fausses nouvelles*. I do not know if I am allowed to take the name, but it is in the Press.

The Deputy Speaker: Do not take the name!

Mrs Luchmun Roy: Okay. There were three *en 2007*. You can consult; anyway, it is on the net.

The Deputy Speaker: You can use initials.

Mrs Luchmun Roy: *Initials, okay.* J. C., l'ancien rédacteur en chef de Week-End, A. V. et J. V. les anciens membres de la rédaction de Radio Plus. En 2010, Navin Ramgoolam s'attaque personnellement à la presse, plus précisément à R. B. qui était alors rédacteur en chef de L'Express Dimanche. En 2010, Navin Ramgoolam n'a toujours pas changé son attitude envers les médias, *he continues*. En 2011, *there were some more* arrestations. En 2005, *a team of the MBC was arrested*. En 2009, *I. O. and D. A. were arrested, two ex-journalists of Radio Plus*. En 2011, *D. D.* condamné à trois mois de prison et, en 2012, *B. F. and J. J. were arrested*. So, *this is what we are talking about*, liberté de la presse *and* liberté d'expression.

Mr Deputy Speaker, Sir, I think this Bill, as my hon. colleague Deepak Balgobin mentioned, needs to be above politics. We are not here to talk about who did what. I always appreciate the speech of hon. Shakeel Mohamed – who unfortunately is not here – when he says: “it does not mean when I did it, you should do it”. This is not our intention; it has never been our intention. For there to be a crime, there needs to be the *actus reus* and the *mens rea*. For us, they are only coming forward accusing us of things which are not there, and I just gave you *les antécédents*.

I will now get back to my speech, Mr Deputy Speaker, Sir. Since this Bill has been launched in the public sphere, I have had the chance to talk to different individuals, to youngsters, to elderly people, about this upcoming legislation in the House. I have tried to explain to them why this legislation is very, very important and the response that I got was: ‘seriously, is it now that we are bringing such an important Bill?’ I said, yes, because we had a consultation paper, because now we have so many people who are more and more joining social media. I have a friend who is in UK who sent me a shocking video, for those who are fans of Facebook, TikTok, it is the buzz actually. There is a girl I would refer to as A and a boy as R, both appear to be less than 16 years and the girl is holding a knife in her hand and she is threatening live and direct on TikTok to cut her hand if that guy – if the boy R. – does not call or text her. And, you know, the comments below were like hashtag *fi pe pren kouto koup dipin*. So, imagine if at that particular time, the girl does something, who would be held responsible?

Mr Deputy Speaker, Sir, this is exactly where we are failing towards our younger generation. *Loin de là, honorable* Assirvaden, we are not here to condemn our younger

generations. I am not here to blame anyone of the youngsters addicted to Facebook or TikTok, but I am here to make an appeal to the Members on the other side of the House to look at this Bill through the eyes of the youngsters whom we need to save and to protect, the youth who needs protection. Cyber bullying, revenge porn, among others, are issues which are extensively being canvassed by my colleagues. So, I will move on to the next subject.

Mr Deputy Speaker, Sir, Mauritius as an island, as a country, we are very much diversified. We have multiple cultures, living as one people, as one nation and it scares me when I read the recent revelations of Frances Haugen. Maybe, the name does not say anything to you, but she made some revelations because she was working for Facebook and this is what the younger generation needs to understand. Who is Frances Haugen? She is someone who works in Facebook and what did she say? She said that Facebook consciously harms the children, stokes division and weakens the democracy. She further says the company leaderships knows how to make Facebook and Instagram safer, but will not make the necessary changes because they put profits in front of people. So, we, as a small island, are we more into putting profits in front of people or are we more into protecting our children, protecting our citizens? This is the current situation that is happening right now in Mauritius.

During my speech today, I would love to focus more on accountability. I would invite Members of this Assembly to check the terms and conditions – I am sure everyone here has a Facebook profile or an Instagram profile or any TikTok profile. If you go on Section 3, you will see there are the new conditions for Facebook (Meta), ‘your commitments to Facebook and our community’. It says: “we provide these services to you and others to help advance our missions”, and it clearly states: “but you should not be allowed Facebook if you are under 13 years old or if you are convicted as a sex offender”. But yet, Mr Deputy Speaker, Sir, what do we see? Sex offenders have fake profiles or even those under 13 have a Facebook page and, right now, we are in a country where we are debating about reducing the age of vote from 18 to 16. Can you believe that Facebook is there, allowing those of 13 years old to be on Facebook? Same for Instagram, where it mentions, in basic terms, that you must be 13 years old and it also goes further to say that all the local – Section 5 says that “you may not use the Instagram service for any illegal or unauthorised purpose. International users agree to comply with all local laws regarding online conduct and acceptable content.”

So, my question here, Mr Deputy Speaker, Sir, is, how do we protect the victims if we do not have a strong local law? How do we protect those Mauritians and Rodriguans who were victims, who are victims and who might be future victims of *pédo-pornographie* or Telegram. Do we have a local law to regulate the online conduct? The answer is simply no! To sustain my argument, Mr Deputy Speaker, Sir, I would like to quote Justice Sanjay Kishan Kaul from the Supreme Court of New Delhi, who made a strong pitch to make Facebook accountable for its social media content, citing the global trend on how Facebook had a disruptive potential that could threaten diversity existing within India. Why am I taking the example of New Delhi here in Mauritius, it is because I think it is very important to understand how these social medias function. As per the report, as per the pitch in the Supreme Court, Facebook has different roles. So, it has a different role in America and it has a different role in Mauritius. He clearly stated, I quote –

“Facebook cannot be permitted to take contradictory stance in different jurisdictions depending upon the suitability and convenience. It underscored that in United States of America, Facebook projected itself in the category of a publisher, giving them protection under the ambit of the first amendment. However, in India, it chose to identify itself as a social media platform.”

I think this law is here to clarify this situation. I would also like to take note of what is happening right now. Recently, in the month of September, if I am not mistaken, there was the Report of the Ombudsperson for Children, which clearly stated: “there has to be a need for regulating the social media.” So, it is not only like this Government woke up one day and said: ‘okay, we are going to censor everything, we are going to stop everything.’ It is in the Report of the Ombudsperson. There was a study carried out where you had 56 young children who were interviewed and during that study, there were some *témoignages* whereby some people mentioned about how they felt and a few of the young people emphasised, I quote from the Report of the Ombudsperson –

“The need for cybercrime authorities to block sites and social media groups to allow circulation of sexually implicit and exploitative content to track online child offenders.”

And in the Recommendation Section, - I would invite Members on both sides to check it - it mentions that it is important to note that the UN Committee on the Rights of Children encourage

state parties to review, adopt and update national legislation in line with the international human rights standards to ensure that the digital environment is compatible with the rights set out in the Convention and Optional Protocol.

So, I say it again, we need to check this law not as politicians, there is nothing political about it. It is not about having a law just to protect me or my fellow colleagues, but it is going to protect our children. It is there, in this Report of the Ombudsperson that we need to strengthen this particular law to protect our children.

I will not be long, Mr Deputy Speaker, Sir, but there is something which I would love to share with my hon. Members, and this is why I think this law is very much in line with the vision of this Government, is we fail to understand that there is something very important coming up in this era, the AI algorithm. Google recently conducted study which concluded the following –

“People might abandon their own psychological judgments and rely on computers when making important life decisions.”

So, we are being controlled by technology and, I think, it is very important to regulate all this. And another interesting book which I read, and which talks extensively about the impact of tech and giants is the ‘Homo Deus: A Brief History of Tomorrow’ where he mentions how Google, Facebook/Meta and other algorithms become all known oracles and, I quote, it goes further to say that –

“may well evolve into agents and ultimately into sovereigns.”

So, the ‘sovereigns’ are not going to be MSM, PTR or MMM; but the ‘sovereigns’ are going to be the computer, the Facebook, the Instagram. So, we have to be careful whenever we choose the battle here.

To conclude, Mr Deputy Speaker, Sir, it was an honour for me to lend my support to such an important Bill and I would like to end by acknowledging the work of hon. Balgobin and his team for this well-crafted, well-drafted and well-thought Bill for the public good. The Bill is essentially in line with cybercrime legislations of various countries. It is in line with the American Union Convention on Cyber Security and Personal Data Protection, the Budapest Convention on Cybercrime and Commonwealth Model Law on computer crime and cybercrime.

Mr Deputy Speaker, Sir, driven by the duty to protect this country and its people, there is a need to strengthen capability for cybersecurity to enhance protection of critical database system and critical infrastructural resources.

I thank you for your attention.

The Deputy Speaker: Thank you very much. Hon. Dr. Gungapersad!

(5.58 p.m.)

Dr. M. Gungapersad (Second Member for Grand'Baie & Poudre d'Or): Thank you. Mr Deputy Speaker, Sir. My exposé today will be inspired by the following –

‘Injustice anywhere is a threat to justice everywhere.’

This is what Martin Luther King said. Let me start with the beginning itself of the Bill. In the explanatory memorandum, the object of the Bill is to repeal the Computer Misuse and Cybercrime Act by a new Act. And one of the aims is “to improve investigation techniques”. I would request the mover of the Bill to come clean and to explain how “investigation techniques” will be improved. What training has the Cybercrime Department received to improve their techniques of investigation? The other day, hon. Shakeel Mohamed was referring to the squalid conditions of the Cybercrime Office in modern day Mauritius. Do we have adequately trained and qualified Police Officers to undertake these tasks? How many trained officers do we have to-date to reinforce laws pertaining to cybercrime and cybersecurity? How many are we planning to train in the near future? What budgetary provisions have we made to equip this Investigation Authority?

We recognise the problem links with cybercrime and that cyberattacks on national security are increasingly creating even greater challenges never imagined in the past. I wish to reiterate what the former Attorney General of the United States, Janet Reno said –

“Everybody should want to make sure that we have the cyber tools necessary to investigate cybercrimes, and to be prepared to defend against them and to bring people to justice who commit it.”

But where is the problem? The problem is, where the present regime that we have, which often undermines institutions, misuses the institutions because of its unrepentant, autocratising tendencies.

Mr Deputy Speaker, Sir, I recognise we need to protect our country against cybercrimes and ensure cybersecurity. We need to protect our citizens, especially our children from the misuse of fake profiles, cyberbullying, revenge pornography, amongst others.

In his introductory speech, the mover of the Bill, last week, has been trying to impute motives on the Opposition. He said that, I quote him –

“There is clearly a deliberate attempt to mislead people on the Government’s intention and this is not new.

I totally fail to understand why Members of the Opposition and also some frustrated politicians outside Parliament are against enhancing the cyber security ecosystem in the country.”

And most of the orators, on the other side of the House, have been harping on the same issue again and again, imputing motives on the Opposition, trying to convince people that, we, on this side of the House, are not for cybersecurity, as if we are for cybercrime, “as if”.

Mr Deputy Speaker, Sir, why we have apprehensions? What are our concerns? These concerns are not only the concerns of the Opposition here. These concerns are the concerns of the nation. Unfortunately, they cannot come here to express themselves. We have legitimate concerns because we have had bad experiences in recent years. And for that, Mr Deputy Speaker, Sir, let me quote from the Country Reports on Human Rights Practices for 2020, Mauritius, page 5, ‘Section 2. Respect for Civil Liberties, Including: A. Freedom of Expression, Including for the Press. I quote –

“The Constitution provides for freedom of expression, including for the press, but the government did not always respect this. A law was amended in 2018 to prevent internet users from posting anything that could cause “annoyance, humiliation, inconvenience, distress or anxiety to any person” on social media. Anyone found guilty faces up to 10 years’ imprisonment.

Freedom of Speech: As of November 30, police had arrested seven persons for antigovernment comments and postings on social media. On April 15, police arrested R. S., a civil servant who formerly worked as the president’s secretary, after she shared a

memes that included a photo of the prime minister. Police did not give her lawyers access until the following day. Police arrested R. L. on July 9 for a similar offence.”

On July 25, Police arrested F.R. after she criticised a Member of Parliament, a PPS, T.D. on Facebook, who is part of the majority – alleged post - damaged her reputation. All three were released on bail. And now these people *vont faire la leçon de liberté d’expression* to the Opposition and one Member, preceding me, referring to the past! Let us talk about what is happening today. Let us talk about what is happening today. We should not forget how broad day murder can be disguised as suicide in my country. We cannot forget that!

The Deputy Speaker: No, no, no!

Dr. Gungapersad: We should not sit

(Interruptions)

The Deputy Speaker: Order!

Dr. Gungapersad: Okay, I remove it. I remove it.

(Interruptions)

The Deputy Speaker: It is very gentlemanly from your side.

Dr. Gungapersad: I remove it.

The Deputy Speaker: It is very gentlemanly from your side.

Dr. Gungapersad: Thank you. I know it harms them.

Safety cameras operate whimsically, intentionally or perhaps criminally switched off, perhaps I am saying, or sensitive footage deleted, not inadvertently but perhaps deliberately, to protect some people. As I said earlier, it is not the legal arsenal which is highly controversial, but the credibility of the regime which sends cold shivers down the spine. They can bend the provisions of the legislation to harm. Even if the mover of the Bill is the same one who, sometime back, brandished the *code noir* in this very august Assembly, I have reasons to believe that he is imbued with good intentions. He may brandish the *code noir* inadvertently, perhaps a lack of maturity, a lack of sensitivity, perhaps he did not think what he was doing, but I will not impute bad motive today to him. He may have done something wrong. He has time to grow, to mature; he has brought forward a well-written document by his advisers. Perhaps the *code noir*

was not there and he, by mistake, brought it in this august Assembly. But I have reasons to believe that he has good faith, that he is imbued with good intentions and that he is trying to do something for the welfare of the country. Why, on this side of the House, are we not voting for the Bill? What are the clauses we are not happy with? I repeat myself; there are certain sections/subsections, which go against our constitutional rights and freedom of expression. Certain I have said, not all.

There is the fear that this Bill may be misused; may be misused, not always, may be. There is the danger that we do not have enough of trained and equipped personnel to man this Department. There is the apprehension of the Opposition here, and elsewhere in the country, that political agents will be nominated by the Prime Minister and the Minister in the National Cyber Security Committee. There is the fear, and this may happen, as it has been happening for the past few years.

Mr Deputy Speaker, Sir, as I said, if the hon. Minister, the mover of the Bill, is honest enough to ensure the safety, the security of all those who are using Facebook and other virtual media - I have tried to go and read a similar type of Bill which was presented in South Africa, the Cybercrime and Cybersecurity Bill, which was presented in South Africa, and I refer to sections 34 and 35. These are sections which are not there in Mauritius. These are sections which will make us more confident, will increase our trust in the laws. What do these two sections say? Section 34 refers to “powers conferred upon a police official or an investigator (...)” - to be conducted in decent and orderly manner with due regard to rights of other persons. I am not reading everything. I am just summarising it.

Section 35, “Wrongful search, access or seizure and restriction on use of instrument, device, password or decryption key or information to gain access (...)” These officers may be guilty of an offence. And this leaves me, Mr Deputy Speaker, Sir, to some harrowing experiences some people have faced when they were arrested and detained by the Police of my country. I am talking about Mauritians. I will refer to a book written by Touria Prayag and I have the permission from the writer to quote from the book.

(Interruptions)

Obviously, you are not happy! Page 50! It is good you listen, you defenders of human rights, you defenders of women rights! Listen!

The Deputy Speaker: Address to me! Address to me!

Dr. Gungapersad: Yes, Mr Deputy Speaker, Sir.

The Deputy Speaker: I will listen.

Dr. Gungapersad: We are talking about F.R.

“Once in her cell, fighting for the urge to vomit, Fariah took her hands off her face and opened eyelids heavy with pain. The only light she could see from a lamp far away, it looked like belches of flames, illuminating the ragged foam mattress thrown on the floor.”

It continues, page 50 –

“She knew it was a question of hours before the Police would come to take her to Court. She tried to get ready to face the day, but she could not. She tried to wash up, but could not face using the toilet...”

And, this is important, ladies, and any humanist –

“...and having her period did not help. She wanted to change, but could not face the cameras all around. The putrid smell that pervaded the cell, making the thought of personal hygiene seemed a distant luxury.”

Mr Deputy Speaker, Sir, while voting for a Bill, how come we do not bear in mind such extracts in this book, but slices in the lives of people? Such torturing, harrowing experiences which they are not going to forget so easily! This is happening in my country and you want me not to voice it out because some Members on the other side, they are not happy! It is a fact! It is a fact, you believe it or not! It is something you should be defending.

There is another one, the arrest of a young man, I.S. He was arrested because it was considered that he was a cyber-terrorist. A frail young man, a cyber-terrorist! As a father, as a teacher, as a Mauritian, I will not forget the scene when that man was coming out of the Court, his hands were handcuffed and the mother yells, shouts and tells him: “*Pa kasiet sa menot la. Lev to la main! Montrer ki manier moris pe trait so garson!*” Raise your hands with the handcuffs! Show it to everyone, to the cameraman so that they become conscious of how people are treated! If it is my relative, I have one attitude; if it is someone else, I have another attitude!

Deux poids, deux mesures! This is the problem in this country. And what guarantee will this Minister give me or this Government give the nation that such things will not occur? If they give this guarantee in writing, I am ready to vote for this Bill if this *dérapiage* will not take place because we are here to protect all the citizens of the country and I said: injustice anywhere is a threat to justice everywhere like Martin Luther King said it. There will be blood, there will be crime in the hands of some and to end, Mr Deputy Speaker, Sir, I will leave it with Macbeth Act 5 Scene 1, sleepwalking scene when mentally tortured Lady Macbeth – I am intentionally referring to Lady Macbeth so that those who understand what I am saying – and what she says –

“Here is the smell of blood still. All the perfumes of Arabia will not sweeten this little hand.”

May those who have harmed harmless people, may those who have harmed innocent people pay as and when God decides.

Thank you very much for your attention.

The Deputy Speaker: Thank you very much. Hon. Mrs Tania Diolle.

(6.16 p.m.)

Mrs T. Diolle (Fourth Member for Belle Rose & Quatre Bornes): M. le président, nous voici aujourd’hui appelés à légiférer sur une loi qui compte tenu de la teneur des débats et des questionnements qu’elle a suscités, ouvre une boîte de pandore. Une boîte de pandore qui, admettons-le, beaucoup ont refusé de l’ouvrir, donc félicitations au ministre Balgobin d’avoir eu le courage de légiférer sur une question qui est de plus en plus complexe. Les débats sur ce projet de loi ont soulevé des sujets importants tels que la liberté d’expression, le droit à la vie privée, le questionnement de notre culture institutionnelle, et des concepts républicains ainsi que démocratiques ont été soulevés, M. le président.

La situation des jeunes femmes à l’air numérique et de la pornographie, le droit à l’obscurantisme et les *fake profiles*, les sentences pénales et la proportionnalité de ces sentences ont suscité de l’émotion du côté de l’opposition parce que nous parlons d’une nouvelle génération et classe de criminels, les *cyber criminals*. A aussi été soulevé la question de la définition de ce que *harm* peut être en tant numérique. M. le président, ce qui nous interpelle est un honorable membre de l’opposition qui fait sourciller quand celui-ci dit : « *the way the Bill*

was drafted, many of us will commit offences everyday. » M. le président, ces sujets ont été soulevés tout en restant en pertinence à ce projet de loi. Cela démontre simplement que la classe politique a un travail monumental devant elle quand il s'agit de légiférer par les temps qui courent.

Après l'arrivée de la Covid-19, l'ampleur du numérique et de la société parallèle qu'elle a engendré suscite des inquiétudes, M. le président. En réalité, le cyberspace est devenu une autre façon de vivre, un univers parallèle où il y a une demande persistante pour un vrai projet de société. Je m'explique, M. le président. Le cyberspace est devenu une société en elle-même, un autre monde où existe un espace public, un espace financier, un espace social, un espace politique et un espace économique, un échappatoire pour tous ceux qui ne peuvent pas se plier à la rigidité et à la moralité des conventions et usages politiques et sociales qui datent de millénaires et qui existe dans la vraie vie sociale.

Nous sommes en retard, M. le président. La teneur de nos débats démontre ainsi à quel point nous, j'ai bien dit nous, c'est-à-dire la classe politique des deux côtés de la Chambre, à quel point nous sommes ignorants et dépassés par ce qui se passe autour de nous. C'est un privilège pour moi, millénial, légiférer pour la génération Y et Z sur un sujet qui est d'importance capitale, fondamentale pour cette société que nous dessinons chaque jour sans nous en rendre compte.

Vous réaliserez, M. le président, que nos débats sur les droits de l'homme se basent sur une charte qui date de l'après-guerre alors que nous entrons à l'air numérique. Depuis, des plates-formes virtuelles ont été créées telles que Facebook, Instagram et à chaque seconde que nous parlons ces droits que nous chérissons tant en tant que république et démocratie sont bafoués. Sans que nous puissions M. le président, protéger ces victimes, un univers, M. le président, des plates-formes numériques, M. le président, où il est question de liberté d'expression, de droit à la vie privée, de vie publique, M. le président, parce que même si elle reste virtuelle les espaces et plates-formes publiques restent une vie publique, M. le président.

Où des normes sociétales sont en train d'être définies et dessinées, où une génération, ma génération et celles qui vient après moi, la génération Z, adopte de nouvelles normes sociales et publiques, de nouveaux comportements économiques, financiers et sociales. Une plate-forme, un univers, M. le président, où il est question d'éducation, en temps de Covid il devient un instrument d'éducation. Où il est question de vie privé où nous rangeons toutes nos informations,

où il est question d'activité économique, où il est question de finances. Et, nous revient une autre phrase d'un député de l'opposition –

“That the citizen has to know each offence and how to apply the law.”

M. le président, je diffère de l'opposition sur un point, ce projet de loi est timide comparé à l'ampleur du problème mais nous ne blâmerons à aucun moment le ministre en question puisqu'il légifère pour son domaine, celui qui est les TIC. Alors que nous la classe politique au lieu de nous chamailler dans cette auguste Assemblée suite aux débats, aux échanges que nous avons eu devons commencer à réfléchir à un projet de société pour l'air numérique. En réalité, ce projet de loi a démontré que nous sommes face à l'inconnu et cette observation comme je vous l'ai dit et je vous le répète, est vrai pour les deux côtés de la Chambre.

La classe politique dans son ensemble devrait faire face à ces débats et avoir le sursaut qu'il faut. Nous parlons de pornographie, M. le président, à l'ère où la pornographie est normalisée. Nous parlons de liberté d'expression alors qu'on se permet de dire sur Facebook ce que l'on ne dirait pas dans un journal, ce que nous ne dirons pas dans les débats parlementaires sans avoir à *withdraw* dans les débats parlementaires. Nous faisons beaucoup d'accusations, M. le président, il y a eu beaucoup d'accusations sur ce projet de loi et bien au contraire de ce qui se dit dans le camp de l'opposition, c'est un projet de loi qui s'attaque au cyberspace oui mais timidement. Donc, les critiques d'attaque à la liberté d'expression, d'attaque à la vie privée sont infondées puisque cette loi ne va pas assez loin et je vais m'expliquer, M. le président.

Il est temps de suivre l'exemple du Sénat américain. Le Sénat en 2016 suite à l'épisode de *Cambridge Analytica* a *put to task* Facebook et Instagram pour ses violations justement de cette charte d'après-guerre, cette violation quotidienne de chaque individu à travers le monde. Facebook ne contrôle plus sa cyberspace. Il y a le *whistleblower* Haugen qui a, le 21 octobre, déposé devant le Sénat. Elle a pris son courage à deux mains sans *fake profile*, M. le président. Elle n'a pas eu besoin d'un *fake profile* pour être un *whistleblower*. Elle a déposé devant le Sénat américain et elle a assumé ses responsabilités, son poste à Facebook était *Manager of Integrity* et c'est parce qu'elle est fidèle à ses principes qu'elle est partie dénoncer la compagnie au Sénat et aujourd'hui Facebook *is being put to task* et pourquoi, M. le président ? Parce que comme pour l'industrie du tabac qui a dissimulé ces recherches internes pendant des années, les recherches internes de Facebook ont démontré, les recherches de Facebook sur sa propre plate-forme ont

démontré que Instagram a des effets ravageurs sur les enfants de moins de 13 ans. Les jeunes filles, M. le président, les jeunes filles que nous défendons tant.

Ce n'est pas un hasard si les Nations Unies ont déclaré que cette année-ci pour la Journée internationale de la fille le thème sera la 'Génération numérique, notre génération' et elle, les Nations Unies, dénonce justement cette influence sur les jeunes filles. M. le président, nous sommes en train d'éduquer nos enfants à travers Instagram à être ce qui n'est pas réel, M. le président, et Facebook en a pris conscience. Et ça va plus loin, M. le président, nous parlons de socialisation, nous parlons de politique. Parlons du principe de démocratie et comment le manque de contrôle dans l'univers, la cyberspace et les plates-formes numériques sont antidémocratiques et inquiètent le Sénat Américain au point où il pense amender la section 230 de leur *Communications Decency Act*. Cette section donne la liberté aux compagnies comme Facebook de ne pas modérer leur plate-forme. Mais que découvrons-nous ? Que découvrons nous quand nous écoutons les débats sur cette question du numérique ? Nous découvrons que Facebook ne peut plus contrôler les réseaux organisés de *fake profiles*, qu'il dit *engage in toxic politics*. M. le président. Facebook ne peut plus contrôler la propagation de *fake profiles* sur son propre espace. Et justement, le *whistleblower* Haugen a même dénoncé le fait que Facebook est très conscient de ne pas avoir suffisamment de personnel pour pouvoir contrôler ce qui se passe sur sa plate-forme. Et, moi, même si je supporte le ministre dans sa quête d'amener une loi pour régir la cybercriminalité, pour régir le cyberspace, je suis d'avis qu'on devrait suivre l'exemple du Sénat. Il est temps de *put to task the broadcaster of pornography/ revenge pornography*, celui qui permet de violer la vie privée de chaque individu, celui qui permet de propager de fausses nouvelles.

Un exemple, le Président Biden inquiet, a dit : 'mais comment se fait-il qu'autant de fausses informations ont circulé sur le vaccin aux États-Unis au point d'influencer les gens et qu'ils n'aillent pas se faire vacciner ?' Les États-Unis ont ce problème, M. le président, tout comme à Maurice c'est le même problème ; c'est pour cela qu'ils ont mis sur pied ce comité et *les hearings* sont toujours *ongoing*. Donc, si cela intéresse les membres de l'Assemblée !

Monsieur, laissez-moi vous dire une chose, je suis ...

The Deputy Speaker: M. le vice-président ! Allez-y !

(Interruptions)

Mrs Diolle: Mais, Monsieur, vous présidez la séance, donc, vous êtes le président. Excusez-moi !

M. le vice-président, je vous dirai une chose, la question soulevée par l'Opposition quant *aux inquiétudes qu'ils génèrent par rapport à la culture institutionnelle et sa capacité à implémenter la loi* sont justifiées, pas parce que c'est ce gouvernement qui est au pouvoir. Elles sont justifiées ; je vous ai parlé d'un univers inconnu, d'un univers où nous ne comprenons toujours pas le comportement politique de ceux qui s'engagent sur cet espace public et politique. La question a été posée dans cette Assemblée, ils ont remis en question la Police à un moment où on croirait qu'il n'y a pas de procédures et qu'on peut arrêter les gens comme on veut et qu'il suffit juste de faire comme ça, mais nous savons tous très bien que ce n'est pas vrai. Ils ont remis en question le Judiciaire. Pourtant, le Judiciaire a innocenté des gens. Ils remettent en question le droit de politiciens de faire des dépositions parce que, supposément, on n'a pas le droit de se sentir lésé et faire une déposition comme tout le monde. Ils remettent en question les *fake profiles*, alors que depuis 2016 aux États-Unis il est interdit d'avoir un *fake profile* sur Facebook sans s'identifier. Depuis 2016, si vous voulez ouvrir un compte Facebook, vous devez utiliser votre carte d'identité et avoir une photo où on peut vous identifier. Pourquoi est-ce que cette Opposition veut que nous restions arriérés? Pourquoi cette Opposition ne veut pas suivre la tendance ? Pourquoi cette Opposition pense que nous devons laisser cet obscurantisme régner alors qu'elle dénonce une culture institutionnelle qu'elle trouve opaque ? Est-ce que cette Opposition a trouvé une échappatoire sur Facebook ? Est-ce que cette Opposition ne peut pas s'adapter aux normes et aux lois en vigueur qui régissent la vie publique dans la réalité et a envie de créer un univers parallèle ? Je laisse cette question à cette Opposition puisque, personnellement, je n'ai pas de *fake profile* ; je ne pourrais pas, j'assume la responsabilité de tous mes propos, de toutes mes opinions et de mes convictions.

M. le président, dans cette loi je pense qu'il est vrai qu'on devrait ne plus suivre les sentiers traditionnels quand il s'agit de ce comité qui va s'occuper - d'une certaine façon ce n'est pas un régulateur même si je vois que dans la presse on parle d'un régulateur. Il faut sortir des sentiers battus, M. le président, parce qu'un comité limité, se donner aussi peu de moyens pour légiférer, pour régulariser un univers qui nous dépasse et qui affecte toute une génération où nos jeunes sont renfermés, sont en proie à la pornographie - *revenge pornography*, parce que nous vivons à l'ère de la pornographie, M. le président, aussi ne soyons pas hypocrites. Ce qui nous

dérange, c'est qu'on bafoue le droit d'une femme à son image, à l'utilisation de son corps et ce qu'elle veut qui soit publique. Donc, c'est ça qui dérange, M. le président. Ne forçons pas les débats sur ce qui est politiquement, moralement correct mais retournons à l'essentiel. Si aujourd'hui nous voulons combattre tous ceux qui bafouent les droits des individus, il nous faut un comité beaucoup plus élargi, un comité beaucoup plus indépendant, avec des légistes de niveau, avec plusieurs représentants du secteur privé, M. le président. Un représentant du secteur privé n'est pas suffisant et j'ai toujours exprimé cette opinion avec mes collègues de la majorité. Il est temps d'avoir un représentant de ces compagnies, que ce soit Facebook, Instagram et de toutes ces plates-formes qu'ils assument leurs responsabilités et qu'ils nous aident à combattre toute cette obscurantisme et cet univers parallèle, où nos normes, nos lois ne sont plus régularisées, où nous perdons notre culture politique de démocratie et républicaine.

M. le président, il y a eu une question soulevée sur la liberté d'expression et notre culture institutionnelle. Je voudrais rappeler à cette Chambre que l'exercice de la liberté d'expression n'est pas dissociable du droit à l'information. Si on veut remettre sur la table le droit à l'information, le *Freedom of Information Act*, très bien. Mais n'oubliez pas qu'une plate-forme qui propage des *fake news* ne peut pas être associée à la liberté d'expression et ça c'est un fondement républicain, M. le président. C'est un fondement de base, de l'essence de ces droits. Donc, oublions cette contradiction; commençons à réfléchir comme une classe politique responsable et allons vers la régularisation d'un cyberspace qui menace des décennies de sagesse politique et sociale.

J'ai terminé, M. le président.

The Deputy Speaker: Thank you. I will just suspend for 10 minutes, please.

At 6.33 p.m., the Sitting was suspended.

On resuming at 6.44 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Thank you very much. Hon. Farhad Aumeer, please!

Dr. F. Aumeer (Third Member for Port Louis South & Port Louis Central): Thank you, Mr Deputy Speaker, Sir, for giving me the opportunity to address the House once again.

I have listened very attentively to comments made by hon. Mrs Tour and subsequently hon. Mrs Luchmun Roy, and I have the impression that when I listened to them, that the

comments they made on the Opposition during this debate on this Bill, is all about that we are all, on this side, completely against any regulations in favour of regulating social abuses. More so, as if we are keen for social abuses! Unfortunately I have to say, she has not got a grasp of what has been explicitly discussed by my fellow colleagues on this side of the House. Quite sad that constructive criticisms in this House bring out such negative emotion! As for hon. Mrs Luchmun Roy, she hand-picked for her convenience, the word *dangeureux et malicieux* of what hon. Assirvaden said in his speech. And unfortunately, she did not make any reference to the positive remarks about what he condoned in the Bill, what is, I think, can be summarized as petty politics.

Mr Deputy Speaker, Sir, at the very outset, I wish to point out that the Cybersecurity and Cybercrime Bill has attracted a lot of passionate debates, be it on both sides of the House but also from outside, namely the civil society, lawyers and former Members of Parliament.

Mr Deputy Speaker, Sir, such interest and passion to comment and voice one's opinion on the said Bill is a clear indication, on one side, of the absolute necessity to regulate online abuses but, on the other hand, there are certain concerns of clauses that if used their broader sense is literally a gagging order for those who want to criticise in a very figurative, vivid or pictorial language.

Mr Deputy Speaker, Sir, the Bill we are debating today is a blend of three categories –

- (1) The number of offences on the misuse of electronic devices,
- (2) Investigation of offences, and
- (3) The powers of the investigative authority.

And among the new offences, one that attracts my attention is computer-related forgery, cyberbullying, extortion and pornography. Surely, the display of young girls being naked on the internet such as the web of Instagram will surely compel all of us to make sure and ensure that appropriate measures are taken and taken drastically.

Mr Deputy Speaker, Sir, being the 23rd Member of this House to debate on this Bill today, I am pretty sure of what I am going to say has been heavily canvassed in one way or the other. However, as an elected Member, I feel duty-bound to share my opinion and restrict myself to the essentials.

Mr Deputy Speaker, Sir, the Bill is brought to the House, as I understand it, to increase compliance with the Budapest Convention on Cybercrime to which Mauritius is adherence since 2014. However, the timing could have been better for the maker of the Bill since the European Union is currently in the process of updating in the light of emerging technology being used by criminals. For example, using variable internet addresses which has proven to be quite difficult to elucidate.

Meta which is the new platform for Facebook, Instagram, WhatsApp, will have a virtual mode and I recommend that this new concept on social media be taken care by the maker of the Bill or make provisions for same.

Mr Deputy Speaker, Sir, what I will now comment relates to clauses 29, 30, 46, 47 broadly which are pretty specific. There has been no mention so far of the African Network Information Centre Ltd., which you are well aware, AFRINIC. The latter is a Regional Internet Register and there are only five of them in the world. AFRINIC is a commercial company duly registered under the laws of Mauritius and it operates as a Regional Internet Registry and it is the one that represents Mauritius.

Mr Deputy Speaker, Sir, AFRINIC being the registered Regional Internet Registry for the Indian Ocean is exclusively responsible for the distribution, and I said, 'is exclusively responsible for the distribution' of Internet Number Resources consisting of Internet Protocol address and Autonomous System Number.

Mr Balgobin: Mr Deputy Speaker, Sir, on a point of order, I would like to share to this hon. Member - maybe he is not aware - there is a case in Court at the very moment we speak of AFRINIC. So, I think it is not proper for him to discuss on AFRINIC. I am just letting him know, maybe he is not aware. Thank you.

The Deputy Speaker: It is a good point of order. Thank you for bringing it to my attention. So, hon. Dr. Aumeer!

Dr. Aumeer: I will just give the broad line of AFRINIC. I will not, as I understand there is a case in Court.

The Deputy Speaker: You do not have to explain. I am sure you got the point. We do not go anywhere close to a Court case. So, continue! I am not preventing you from talking about it but mindful as to where you are leading with it. Thank you very much. Thank you, Minister!

Dr. Aumeer: Thank you. I thank the hon. Minister to have brought this to my attention as well. I am just for the purpose of information now resuming on AFRINIC. Now, AFRINIC has, as its clients in Mauritius, Mauritius Telecom and Emtel. The fact is if it is in a monopoly position for the African continent and that can lead to abuses such that the obligation imposed on the customers to monitor their respective internet users in certain circumstances and report back to AFRINIC, in practice, Mr Deputy Speaker, Sir, that would mean that AFRINIC can potentially request Mauritius Telecom or Emtel, for example, to monitor its customers and report back to them.

Mr Deputy Speaker, Sir, I have mentioned this because the Bill, as tabled, appears to emphasise on the end users mostly and large organisations, as I mentioned AFRINIC, are not captured. I believe that the protection offered under the Bill should extend to companies as well such as Mauritius Telecom and Emtel so that they cannot be forced by any organisation to monitor their customers.

Mr Deputy Speaker, Sir, only a few months ago, the ICT Act was amended after Budget Recommendation 2021 and one particular aspect of the amendment of the time, was the definition of ‘harm.’ That encompasses such a wide meaning where there can be conflicts of interpretation as to one meaning of ‘harm’ can be used in French on freedom of expression and constitutional rights.

Mr Deputy Speaker, Sir, now with such offences and if convicted must lie the principle of proportionality as per Article 15 of the Budapest Convention.

Although I am not a lawyer by profession, I do appreciate that with all fundamental rights, there may be derogation for the right of freedom of expression, provided derogation are justifiable in a democratic society. Such a derogation must not be excessive or out of proportion vis-à-vis its objective.

Mr Deputy Speaker, Sir, while I support the need of such a Bill as to stop abuses on the social media which leads to a lot of unfortunate events, sometimes even long-term depression, broken marriage, loss of employment, suicide.

However, fines must be in relative proportionality of the causative offence. For example, a young student who depicts his lecturer as someone who looks like Obelix just because the latter has a bit of a belly and the latter took offence and eventually such sanction can be fined heavily with a long considered sentence. I do not conquer to redress it only with fines and penalties. The law of proportionality must prevail.

Mr Deputy Speaker, Sir, regulation of abuse and threat to social harmony is more than welcome. But I have not seen anything in the Bill in terms of reparation to those who have been victims of social abuse. Indeed, judicial remedies are provided but it stops as that. Accompanying psychosocial measures and means to reintegrate normal life of those who have been victims must be part of such a Bill.

Mr Deputy Speaker, Sir, many psychologists have expressed concern in the increased rise of cyber-attacks due to certain reasons among which easy access to internet, easy access to social media but mostly due to frustration, jealousy, envy and the desire to destroy others. I myself have had such attacks on social media, but never had it throughout my professional career. Only when I joined politics, I have been the target of such vile effects. I used all investigative authorities to know who the culprits of fake profiles were, IT Police Unit, Serv.mu but those, if I can call them idiots, got away because they have a glass ceiling. Luckily, I am strong enough to rise above these but those who are weak do need support, and I hope the maker of the Bill today ensures that support and action is there and is not *ce qu'on dit en français, éphémère*.

Mr Deputy Speaker, Sir, for victims on social media, there must be easy and direct access to psychologists who can identify individuals who have changed their behaviour, mannerism and isolating themselves. Awareness campaigns as to identify changes, how to reach out to those who are in need and to help and prevent abuse must be increased.

Mr Deputy Speaker, Sir, one has to make sure that the whole discussion on abuse and harm to our children, family, relatives and social harmony that takes it as explicitly mentioned in the Bill, do not act as a *paravent* for other political ulterior motives. Arbitrary arrests are still vivid in our minds.

Mr Deputy Speaker, Sir, only a few months ago, when the ICT Act was amended after budget recommendation, one particular aspect of the amendment of the time was the definition of 'harm'. 'Harm' had a wide definition, ranging from emotional, moral abuse, injury, neglect, ill-treatment, among others, and that encompasses such a wide range of meaning where there can be conflicts of interpretation as to one meaning of 'harm' can be used to infringe on the freedom of expression and constitutional rights. We have to discriminate where we are when we are defining 'harm' in the context of judicial law.

Mr Deputy Speaker, Sir, the investigating authority under this Bill must be seen and felt not to lead to abuse, but also to be seen as impartial when abuse comes from those who have access to the corridors of power. The very sad and disgraceful behaviour of one member of the Information and Communication Technology Authority (ICTA), where itself, in its Article 18, clearly stipulates "curtail and regulate illegal content on the internet". Yet, one member of that Board did post up abuse himself. Why did he do that? Because he felt he was *intouchable* and when it comes to use vile attacks to attack someone's personality, all means are permissible for these people. One is too aware of the number of cases over the last five years. I am not going to name them, it has been heavily canvassed during discussions where people have been arrested because they either made jokes about a Member of Government or were critical of Government and were arrested on the famous provisional charge which caused so much concern. The question to arrest someone on such basis must once and foremost clearly be left to either a magistrate or a senior magistrate.

Mr Deputy Speaker, Sir, these bring me to Section 16 of the Bill, 'Misuse of fake profile'. As I said before, the word 'harm' is a very vague expression. Despite the removal of the words 'annoyance and anxiety', the word 'harm' as it is in the Bill, still implies subjective feelings. Subjective feelings are feelings that cannot be quantified each in their own merit. You cannot quantify a subjective feeling, but it is a harm, it has caused its effect and can only be tangibly assessed by those at the receiving end when they give their own testimony of what they felt at the hand of one sick abuser. What has changed is the severity of fine and conviction, but it has to go further than that.

Mr Deputy Speaker, Sir, Section 21 refers to infringement of copyright and related rights, a very interesting part of the Bill where the argument can go each either way. While it is very

encouraging that the proposed Bill seeks to protect the right of an author or owner of a copyright, in particular Section 21, Sub Section (b), if violated, can lead to abuse, and I say possible abuse by the regulator, since downloading of football matches, music, kid's game for example have become part of our cultural scenery. All of us here, sitting in this House, must have been to a restaurant and have had a glance around them to see that most families with their kids are busy watching either football or games on their personal mobile phone. The definition of downloading for gain, therefore, must be very clear since we live in an era where children and adolescents are all too involved in what goes on the social media and do not, in any attempt, seek to have personal gain when doing the odd downloading. Mr Deputy Speaker, Sir, I fully support the protection of copyrights and the hard work of artists, however, there must be circumstantial reasons for particularly the youngsters and others doing the odd downloading.

Mr Deputy Speaker, Sir, as per the proposed Bill, failure to moderate undesirable content, Section 23, will, as it describes, be the responsibility of any online administrator. Does this administrator have the professional skills, qualifications and expertise to vet what is undesirable in the eyes of the regulator? This is clearly a very subtle means of controlling online media, particularly any comment or post that is posted on such website and, if it is not to the liking of the Investigatory Regulatory or the prince of the day, will be coined as undesirable content.

Mr Deputy Speaker, Sir, the administrator of such websites may then preface a hefty fine and a lengthy imprisonment. Once again, what is termed as undesirable content may be seen to be reciprocal to all those who express their views on political, cultural, religious matter irrespective on which side of the turf they are at present.

The last sections I want to comment are Sections 29 and 30 and in brief be summarised as interception of communication and for the layman *table d'écoute*. It will be up to the Investigatory Authority, the more so the Police, to apply to Judge in Chambers for activities rating to such importance that such monitoring of communication is deemed necessary or even request service provider to assist such monitoring or recording of traffic data.

Mr Deputy Speaker, Sir, only last April, attempt to filter all activities on social media through a proxy server did meet resistance and uproar and the idea was abandoned. *Ce n'est que partie remise car le Cybersecurity and Cybercrime, à travers les sections 29 et 30, c'est la nouvelle astuce pour surveiller tout ce qui est dit en ligne. Si les conversations téléphoniques*

sont en table d'écoute pour les besoins de certains, je me demande alors combien d'applications devraient être faites au Juge en Chambre chaque jour pour justifier certaines pratiques qui ne font pas honneur à la société mauricienne.

To conclude, Mr Deputy Speaker, Sir, if this Bill, as per its good intention, is to prevent abuse in any form on social media, then, it is equally true that abusive sanctions and rhetoric must not be the remedy, especially for the naïve and the good intent individual. A fairer and more just assessment of social media content by the investing authority to investigate offence will give credit to its enactment.

Thank you very much.

(7.05 p.m.)

Mr S. Dhunoo (Third Member for Curepipe & Midlands): Thank you, Mr Deputy Speaker, Sir. Before I start, I would like to refresh the memory of my learned friend, hon. Dr. Aumeer, when he was talking about gagging order. We all know the famous 'Lady Macbeth' of the Labour Party, how through her lawyer, she wanted a gagging order and how Police Officers were treated on a particular day when a picture was taken of her and what treatment was given to members of the press. And, just to remind him that it is not, us, the Government of the day, who has been putting gagging order as he had said in his speech.

Mr Deputy Speaker, Sir, let me come to the Bill. Let me first set the scene before coming on the gist of the Bill. Back in the early 2000 when Mauritius was making its transition from primary and secondary-based economy to a service-based economy, late Sir Anerood Jugnauth had a vision of making Mauritius a cyber-island, an island with a state-of-the-art infrastructure in a dedicated economic zone at Ebène to host the ICT service providers. Today, in line with the vision 2030, this vision is being taken to another level of sophistication to make Mauritius a smart island.

Mr Deputy Speaker, Sir, digitalisation and ICT are today leading economic pillars that help all existing sectors to grow and prosper. And we have seen in this pandemic, even in a crisis situation, the ICT sector has demonstrated strong resilience and has brought a positive contribution to the GDP with 5.9%. This sector employs about 27,000 people and accounts for the presence of 850 companies, including big international players, such as Oracle, Accenture,

IBM, amongst others. We have reached a level where we are talking about 5G, three submarine cables for an optimised internet experience, e-Government, FinTech, Artificial Intelligence, Internet of Things, digital banks and money, vaccination digital passes and an upcoming Data Technologies Centre. We are leaders in the Africa region for internet penetration with 64%, and have topped the ICT Development Index and the Network Readiness Index.

Mr Deputy Speaker, Sir, as we talk, we are around six weeks from Christmas and our children's wish list will include smartphones and tablets instead of the traditional toys like dolls and bicycles. I am sure that each one of us, here, present in this Assembly, has a social media profile, a Facebook profile, TikTok. Mr TikTok is not here, we know who he is.

The Deputy Speaker: No, no, no, no!

Mr Dhunoo: A WhatsApp messaging application, except hon. Toussaint who ...

(Interruptions)

The Deputy Speaker: Hon. Dhunoo, it is not proper to say 'Mr TikTok'!

Mr Dhunoo: I have said it; everyone knows 'Mr TikTok'.

The Deputy Speaker: No, no, no! You listen to me, it is not proper. Okay?

Mr Dhunoo: Yes, I remove it, Mr Deputy Speaker, Sir.

We are also talking about an account for Netflix or Prime Video; a digital bank, and of course, digital vaccination pass. Everyone has it here in this House. All this is to say that we are living in an innovation driven culture and that our daily lives involve data, information, innovation and technology in all aspects. As we speak, there are millions of information being processed, crunched to enable us to live that innovation-driven culture.

Mr Deputy Speaker, Sir, according to the Global Risk Report 2021, two of the five biggest risks facing humanity in 2021 are connected with the digital world. One of them is the failure of cybersecurity measures. As more of our lives move online, there are greater risks that our information are misused. It is therefore crucial that these information need to be treated in a trusted and secured cyberspace. A secured cyberspace is very linchpin of an innovation- driven culture. New and dangerous practices are developing in cyberspace, cybercrime information manipulation, political or economic espionage, attacks on critical infrastructure or individuals,

theft of personal information or confidential data, compromise of information and communication system. These attacks are becoming increasingly sophisticated and intense. These new threats and attacks therefore need to be addressed in a view to ensure trust and security in the digital space.

Previously, cybersecurity was catered under the Computer Misuse and Cybercrime Act 2003. Since then, 18 years have passed and all Members in this House have agreed that this field has a fast changing nature and we need to review it. Cybersecurity and combating cybercrime has always been given a prime importance in our agenda. The Data Protection Act has been amended to cater for this best international practice to include a framework, which is in line with the European General Data Protection Regulation (GDPR). We are also party to the Paris Call 2018, which has developed a comprehensive framework for nine principles to provide a peaceful and secured cyberspace to international players and provide an Emergency International Cooperation Mechanism. Likewise, to ensure a safe and secure cyberspace, the Digital Mauritius 2030 Strategic Plan proposes to tackle cybercrime by strengthening legal frameworks, maintaining strong cybersecurity mechanism through regional and international linkages, and educate local communities on cybersecurity.

Mr Deputy Speaker, Sir, in the same vein, as a proponent and a member State of the Budapest Convention, this new Bill is being introduced to cater for increased compliance, monitoring and supervision, specific provision to combat the destructive offences committed in the cyberspace, be it in terms of infringing cybersecurity and committing cybercrimes.

Mr Deputy Speaker, Sir, as mentioned earlier, our lives have moved online and hence even offences for which we will be victims, will also be perpetuated online. Cyberbullying, cyber extortion, pornography, harms which are equivalent and as violent and devastating as harassment, rape, assault, theft and burglary are all aggravated offences against a person. Mr Deputy Speaker, Sir, no stone should be left unturned in punishing these heinous crimes. These crimes, even if committed online with no physical contact, are as detrimental to the victim. This Bill is providing for these offences to be punished.

We all know children and adolescents study, play and interact for hours online. But, like every new world to discover, the cyberspace presents a series of risks that they need to know about. Another segment which is very much at risk are our elderly who are, today, connectors as

a means to spend time with their close ones or to facilitate their day to day lives. Statistics have shown that children, adolescents and elderly are easy preys of cyber-attacks. Therefore, providing them a safe haven is crucial. This Bill, by catering for a framework, that is, imposing penalties, this is what it is needed to deter the offenders and protect the most vulnerable victims. This Bill is also proposing to criminalise offences related to misuse of information, computer, fake profile, electronic fraud, among others. It is imperative to set up a punitive mechanism for these offences, as we have seen how detrimental and how they can corrupt public order.

Mr Deputy Speaker, Sir, just to put us into the context, not later than last week, some people have used fake profiles to disseminate videos whereby some people were dressed in PPE claiming that there are not enough places in hospital, treating COVID patients...

The Deputy Speaker: No!

Mr Dhunoo: ... this is not acceptable at all.

The Deputy Speaker: Hon. Member!

Mr Dhunoo: They are playing with emotions of people and creating a panic.

The Deputy Speaker: Hon. Member, this matter is, as far as I know, under judicial scrutiny. There is a Police enquiry going on and it is not proper to talk about the matter.

Mr Dhunoo: I am just setting the scene, how this could have created a disorder in the country.

(Interruptions)

The Deputy Speaker: Order!

Mr Dhunoo: You allowed him for AFRINEX. I am just setting the scene. I will not go more far than this.

The Deputy Speaker: No! It is not your discussion time with me! Please! It is time to listen to my guidance. Matters under Police enquiry – facts about it, can be treated.

Mr Dhunoo: I am talking of the facts.

The Deputy Speaker: I hope you got my guidance! I will let you continue. I hope you got my guidance.

Mr Dhunoo: Yes. I was just speaking about it, Mr Deputy Speaker, Sir. Should we adopt instances like a country like China, which has banned social media or should we, as a Government, come with legislation, as my colleague, hon. Mrs Luchmun Roy has said, debating in the House about the measures that we are discussing and bring our contribution? There are approximately about 930,000 people who are active on social media. That accounts for 73% of our population of 1.3 million people. It includes youngsters and the elderly and other adults.

It is important that each and every one takes his responsibility and uses the social media platform with caution. I am sure that those having a profile must have accepted the terms and condition that the social media has imposed on all of us, prior to creating an account. But it is with deep regret that most of us are busier uploading our recent profile picture or their new video on TikTok without even reading those terms. Have they read the terms and condition? What we are talking in terms of responsible use of platform and that its misuse can entail sanctions, it is with certainty that I can say that none would have committed this offence. Therefore, it is only people with bad intention who will feel that they are being deprived of their fundamental rights and freedom when actually they are the one defaming people, violating their private life and endangering the lives of the people they are attacking. We must all understand where the right of an individual stops and where the right of another individual starts.

Mr Deputy Speaker, Sir, there have been comments from Members of the Opposition that they are fearing that investigation will be carried out in an unfair manner. It is noteworthy that this Bill has been made in line with the principles laid out in the Article 15 of the Budapest Convention, which states that the conditions and safeguards, and calls upon all Member States to this Convention to implement this provision in the domestic law with the principle of fairness, undue delay and judicial independence.

Mr Deputy Speaker, Sir, we can have the best piece of legislation, but what is above all important is also its implementation; the right people equipped with the right tools to enforce these provisions, investigations and to be on the various Committees. Our Government has always believed in this motto of putting the right resources to achieve the best results. As such, it will be imperative to set up a national capacity building for cybersecurity and address mismatch of skills, if any, with the help of the international cooperation, enhance our monitoring and supervisory infrastructure.

Mr Deputy Speaker, Sir, to end my intervention, I would like to commend the hard work of hon. Darsanand Balgobin and his dedicated team to have brought this Bill and restoring our faith and trust in the cyberspace. Mr Deputy Speaker, Sir, cybersecurity is of utmost importance. When we are talking or living in a digital era where our lives are online, it is also crucial to have trust, confidence and security on the digital space. While we are not seeking only for security and innovation, we are now called upon to achieve cyber resilience.

I am done, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you very much. Well done! Hon. Nuckcheddy, please!

(7.21 p.m.)

Mr S. Nuckcheddy (Third Member for Flacq & Bon Accueil): Thank you, Mr Deputy Speaker, Sir. It is with a great pride that I am bringing my contribution to the Cybersecurity and Cybercrime Bill. Ever since this Bill was announced, lots have been told and written and, during the previous weeks, this topic has been the agenda of all the radios. It has been the topic of Press conference of the *détente* and *entente*. So, after listening to all these people, especially the hon. friends on the other side of the House, should I understand that our hon. friends do not care about security and crime? Is that what we should take from them, Mr Deputy Speaker, Sir?

M. le président, de l'autre côté de la Chambre, il y un honorable membre qui se fait appeler le leader historique mais je vois qu'il est plutôt un leader hystérique, 'sa lalwa la pire ki lalwa 2003', when we all know he was in the Government in 2003. So, does he mean that he voted a law which was 'pire,' but just because in a few months' time, the MSM party was going to make him the Prime Minister, and because of that, at that time, he was cool? Well, this Act will repeal the Computer Misuse and Cybercrime Act of 2003 and it is time to repeal also those politicians who are here with no objectivity but only for criticising, organising rally and be anti-patriotic.

Mr Deputy Speaker, Sir, we must understand that computer is the instrument of our age. Cyberspace is the oxygen of the internet so much that our interconnected, globalised and technologically advancing world depends on cyberspace. From our emails to social networking to high priority banking services, Government services, communications, all increasingly place reliance on the World Wide Web and everything connected to it.

A strong cybersecurity and cybercrime regulation is critical for the exercise and enjoyment of human rights, trade, increased investments and socio-economic development. To a layman, cybersecurity means simple things: a password that is not stolen, a message that remains confidential, a child that is not exposed to a stalker or paedophile online. We actually want that when someone types in a web address, that is where they should go and not to a spam, that is, they are safe. When we talk of safe, well, some people on the other side of the House might be thinking of other types of safe.

In the early days of computer, Mr Deputy Speaker, Sir, the only way for others to accede your data on your computer or infect the data would have been through a floppy disk like that. This is no more the case today. You never know where you are going when you click a link. Mr Deputy Speaker, Sir, you must have heard of the International Relations theorist, Mr Joseph Nye. Mr Nye has discerned 4 types of threats to cyberspace. The third one he describes as the one being the most familiar which affects the lives of ordinary internet users.

Cyber-attacks are already happening daily, and as we grow more and more connected, the threats also become more and more complex. SonicWall which is a company that is specialised in content control and network security - I think there is lack of cyber security on my iPad. So, I revert back....

(Interruptions)

The Deputy Speaker: Order!

Mr Nuckcheddy: SonicWall which is a company that is specialised in content control and network security identified...

(Interruptions)

The Deputy Speaker: Order!

Mr Nuckcheddy: ...268,362 malware variants in 2020.

(Interruptions)

The Deputy Speaker: Order!

Mr Nuckcheddy: This was an increase of 74% from 2019. As a responsible Government, it is our duty to protect our people from such hackers. The cyberspace should be a

lieu of mutual respect and security as is in the real world. When we say providing security, what we mean, Mr Deputy Speaker, Sir, is providing security from attacks. What we must understand is that when we talk of attacks on computers, in fact, it is not an attack on the computer as such a thing does not exist in reality. Attacking a computer, in fact, means attack on human beings. So, is it not the duty of a Government to protect the people? And, when I say ‘people’, Mr Deputy Speaker, Sir, we mean each and every citizen of this country. When we say *ensam tou possib*, some people seem to feel excluded but that is not the case.

Hon. Uteem mentioned *Chamchas*. It is a very dangerous way of explaining this Bill, Mr Deputy Speaker, Sir. As for *Chamchas*, his party has more *Chamchas* than anyone else.

(Interruptions)

We, what we have, Mr Deputy Speaker, Sir, on our side are people...

(Interruptions)

...we have people...

(Interruptions)

You look to me like a spoon!

(Interruptions)

The Deputy Speaker: Order!

Mr Nuckcheddy: What we have on our side, Mr Deputy Speaker, Sir, are people with good intentions and true patriots. Whether you are sitting on this side of the House and contributing to take our country to a new height or sitting over there on the other side of the House or standing on the *perron* and just maliciously criticising to create doubts in the mind of people, no problem, we do care about you whether you like it or not. Keep smiling, hon. Aadil Ameer Meea! I like your smile!

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

Mr Nuckcheddy: Let me take the latest example, Mr Deputy Speaker, Sir. Hon. Shakeel Mohamed wanted to steal the show from hon. Dr. Boolell, knowing perfectly well that hon. Dr. Boolell was doing his show outside. So, what does hon. Shakeel Mohamed do? He parked his car somewhere near the National Assembly, took a scooter and just to make a show...

(Interruptions)

The Deputy Speaker: No, no!

Mr Nuckcheddy: He just made a show.

The Deputy Speaker: No, no, no, no!

(Interruptions)

Mr Nuckcheddy: Can I continue, Mr Deputy Speaker, Sir?

(Interruptions)

The Deputy Speaker: Order!

(Interruptions)

Order!

(Interruptions)

Order!

Mr Nuckcheddy: So, what is wrong with that, Mr Deputy Speaker, Sir? There is nothing wrong in what hon. Shakeel Mohamed did. There is nothing wrong!

The Deputy Speaker: No, no, no, no!

(Interruptions)

Order!

(Interruptions)

Order!

(Interruptions)

Order! Please!

It is not proper to go as to the conduct of a Member.

(Interruptions)

It is not proper.

(Interruptions)

Order!

Mr Nuckcheddy: But it is in relation to this Bill, Mr Deputy Speaker, Sir. Let me finish and then you will understand it. You will see.

The Deputy Speaker: No, no, no, no! I do not need any kind of correction or guidance as to what I must rule in this Chamber.

Mr Nuckcheddy: Okay!

The Deputy Speaker: Conduct of a Member has to be taken on a substantive motion or there are other ways to go about it.

Mr Nuckcheddy: Okay.

The Deputy Speaker: I am not going to teach you.

Mr Nuckcheddy: Thank you. What I wanted to say, Mr Deputy Speaker, Sir, is people are making *bouffonerie* to all, whether you are a hon. Member or not and that is what we do not like, even if it is on the other side of the House. This new law creates a regulatory framework for the monitoring and reporting of cybersecurity threats to essential services through the National Cybersecurity Committee. From a patriotic point of view, this Bill is timely. These cybersecurity incidents highlight the need for a coordinated public response to these threats which the Act seeks to address from a perspective which is local to a threat which is global.

However, given the borderless nature of cyberspace, a coordinated international response will be required. Hopefully, the enactment of the Act will be the first step towards a coordinated international response. This Bill, Mr Deputy Speaker, Sir, is a vaccine to protect the society. Uncontrolled cybersecurity and cybercrime means computers with time bomb. I must thank my friend, hon. Abbas Mamode who, though at that time was in the Opposition, came forward to condemn videos which were in circulation and which were a threat to our social harmony.

(Interruptions)

A lot is being said on freedom of expression. Mr Deputy Speaker, Sir, freedom of expression does not only mean expressing of opinion. Freedom of expression also means taking stand against injustice. Freedom of expression also means using your constitutional right to preserve peace and harmony. Freedom of expression also means not expressing on certain issues. William Blake has rightly said, I quote –

“A truth that's told with bad intent beats all the lies you can invent.”

Our hon. friends on the other side of the House are talking about the Bill being anti-constitutional. Mr Deputy Speaker, Sir, let us take our Constitution, the Section 12. I hope hon. Dr. Gungapersad does not mind me taking the Constitution this time. Section 12 (2) talking about laws being inconsistent with the Constitution. Part (a), Mr Deputy Speaker, Sir, mentions, and I quote –

“To the extent that the law in question makes provision: In the interests of defence, public safety, public order, public morality or public health.”

Part (b) of the same Section says the following –

“For the purpose of protecting the reputations, rights and freedoms of other persons.”

And this is what this Bill is proposing, Mr Deputy Speaker, Sir, we are killing two birds with one stone. First, we are bringing laws which will compel our people to abide by our Constitution and second, we are bringing a law which will give legal power to the Budapest Convention.

The Budapest Convention, Mr Deputy Speaker, Sir, to which Mauritius has been a party since 2013, we are completing the job left by the previous Government. The then Government engaged our country to that convention and then had no time to bring such a law at that period because the Parliament was prorogued for nearly a year.

Mr Deputy Speaker, Sir, all what we are hearing and reading on this Bill seems to be a part II of the Information & Communication Technologies Authority when the Section 46 was amended. One of the presses I recall at that time said, I quote –

“In essence, the Government had proposed to systematically silence our internet users, to a large extent.”

We are today at the dusk of 2021. Has our internet users been silenced? Nothing as such has happened, Mr Deputy Speaker, Sir.

At that time, the amendment was even compared to section 66 (A) of the Information Technology Act of India which was declared unconstitutional by the Supreme Court of India. This was also raised again by hon. Uteem. But what hon. Uteem or any other person stating that this Bill is anti-constitutional, what they did not mention is which Article of our Constitution is being violated and how it is violated. Even at that time, and even today, issues are being raised about freedom of expression as if freedom is reserved for only those who have lots of thing to tell but nothing to say. So, when you are raising concerns about freedom of expression, go and tell that to a person who is bullied; go and tell that to a person who is being insulted; go and tell that to a person who has been victim of extortion; go and tell that to a youngster or even a senior citizen who has been attacked. These people do also have a constitutional right. Just consider the recent case of Telegram, Mr Deputy Speaker, Sir! Did any Member of the Opposition come forward to provide a support to the distressed family? Did any of the '*avocats de perron*' provide free service to the victims? *Zéro, M. le président*, and zero has also been their proposal. And, today, when we are providing an umbrella of security, they have the audacity to criticise the Bill. We want our senior citizens or any citizen to be safe from phishing attack.

Now, Mr Deputy Speaker, Sir, because mentions have been made that the Bill is anti-constitutional, let me take the Section 3 of our Constitution, Mr Deputy Speaker Sir, the last phrase mentions the following, I quote –

“(...) designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.”

So, when we take Section 16 of this Bill which talks of the Misuse of fake profile, hon. Uteem mentioned that people use fake profile for jokes. Hon. Uteem, do you wear a mask when you have to crack a joke? He mentioned Liverpool fans sending messages using fake profile, the question which I would like to ask him is, can someone not do it with his true profile? Fake is fake, Mr Deputy Speaker, Sir, there is no reason to rationalise the fake profile unless you have bad intentions.

Hon. Assirvaden started his intervention on Tuesday by providing a vivid example of the malicious way of spreading fake news; he started by saying things that were not said and which are not true.

Mr Deputy Speaker, Sir, this Bill is a very serious one. It is not here to deal with things like if someone wants to call somebody, I do not know, maybe *l'ampoule brilé, coffre, Katori or Macarena*, these are petty things. He should not be worried about these trivial issues. And the intervention of hon. Assirvaden shows how petty his understanding is.

Mr Deputy Speaker, Sir, this is my first mandate and every time we have come here with a Bill, the Opposition has always mentioned that institutions are being created so as to put such people at the head of those institutions who are on our side. But, Mr Deputy Speaker, Sir, the majority of the Mauritians is with us, and these people are faithful to our country and are not anti-patriots...

(Interruptions)

The Deputy Speaker: Order!

Mr Nuckcheddy: ... who tarnish the image of our country daily.

Now, Mr Deputy Speaker, Sir, when you hear what people are saying outside concerning the Section 23 of the Bill which treats about Failure to moderate undesirable content, it is really a matter of concern when you see people on the radio condemning this Section and when you go deep into the issue you can see that these people have not read the Bill, and if they do have, they have either not understood the Section 23 properly or pretend to not understand it. I understand hon. Uteem when he mentioned that he has not seen any article congratulating the Government for this Bill. Of course, they won't because they have not understood the provisions of the Bill. And when I listened to hon. Shakeel Mohamed, my belief that people have not read and understood the Section 23 was confirmed.

What the Section 23 says, Mr Deputy Speaker, Sir, is very clear. It just prevents people from publishing what they are not allowed to publish on their wall and go and publish it on an online account with all impunity. What is wrong on a personal wall is also wrong on an online platform. Again, the moderator does not commit an offence if someone posts anything on the online account as per the Section 23. The Administrator only commits an offence when an

investigatory authority draws his attention on a post which is found to be causing harm. It is only then that they may become liable to a fine not exceeding Rs1 m. and to a penal servitude of a term not exceeding 20 years. I hope our friends who are worried have it clear now that they have nothing to worry; the Bill is here to provide security and not to cause harm.

Mr Deputy Speaker, Sir, it is the vision of this Government to make FinTech, blockchain and AI another sustainable pillar of our economy. For that, Mr Deputy Speaker, Sir, we need to first of all build up an infrastructure which can make this happen. This Bill on the Cybersecurity and Cybercrime is preparing that infrastructure with a solid and robust foundation on which we can erect Mauritius of tomorrow. This is what we are aiming, Mr Deputy Speaker, Sir. We are making history and I request our friends on the other side of the House to be with the history at this historical moment. As they say: “*Pas laisse metro la passer*”. Come in, join us, let’s be all for it!

Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you. Hon. Minister Ganoo, please!

(7.41 p.m.)

The Minister of Land Transport and Light Rail, Minister of Foreign Affairs, Regional Integration and International Trade (Mr A. Ganoo): Thank you, Mr Deputy Speaker, Sir. Thank you for allowing me to add my voice to this critical debate on the Cybersecurity and Cybercrime Bill.

Mr Deputy Speaker, Sir, the Explanatory Memorandum of the Bill, before the House, specifies that this Bill will increase compliance with the Budapest Convention on Cybercrime –

1. for the provision of additional criminal offences related to cybercrime and cybersecurity, improve investigation techniques and increase international cooperation;
2. for the establishment of a National Cybersecurity Committee;
3. for the implementation of a critical information infrastructure protection, and lastly,
4. for international cooperation and mutual legal assistance in cybercrime matters.

Mr Deputy Speaker, Sir, the Government is fully committed to fulfil its international obligations by increasing compliance with the Budapest Convention, which has been abundantly referred to during the debates since this Bill was presented to the House. Indeed, Mr Deputy Speaker, Sir, this Convention provides essentially for three things –

- the criminalisation of conduct, ranging from illegal access data and systems, interference to computer-related fraud, and child pornography;
- procedural law tools to investigate cybercrime and secure electronic evidence in relation to any crime, and
- efficient international cooperation.

This is why, Mr Deputy Speaker, Sir, when I have looked at this Bill thoroughly, I would like to thank and congratulate our colleague for this innovative and elaborate piece of legislation. When I have noticed that the Leader of the Opposition is not intervening on this Bill, I have concluded that he is probably very embarrassed to find, in fact, difficulties in criticising this piece of legislation.

Mr Deputy Speaker, Sir, this Convention which we have all referred to is, in fact, supplemented by an additional protocol covering the criminalisation of acts of racist, xenophobic nature committed through computer systems.

And, in fact, Mr Deputy Speaker, Sir, this negotiation of a second additional protocol is now underway and is being prepared at this time we are debating of the Cybercrime and Cyber Security. The Budapest Convention, Mr Deputy Speaker, Sir, what in fact did it do? It required State to ensure that the offences against and by means of computers should be criminalized in their domestic legislation and that the criminal justice authorities have the powers prescribed in their procedural law not only to investigate cybercrime but also any offence where evidence is in electronic form.

We have been told when our country ratified this Convention, but suffice it to know also, Mr Deputy Speaker, Sir, that in March 2018, we also ratified the African Union Convention on Cybersecurity and Personal Data Protection, the Malabo Convention. We have, in fact, Mr Deputy Speaker, Sir, come a long way since 2001 when we first established Business Parks of Mauritius and then later the Cyber City Project in 2003, then the Computer Misuse and

Cybercrime Act of 2003 which has been reviewed to a login with the Budapest and Malabo Convention.

In 2017, Mr Deputy Speaker, Sir, Mauritius adopted the Data Protection Act ahead of the European Union's General Data Protection regulation, which impacted directly on all countries doing business with the EU.

In 2016, Mr Deputy Speaker, Sir, we hosted an international workshop on Adaptation and Update of Electronic Evidence. In 2017, Mauritius hosted the East African Regional Conference on Cybercrime and Electronic Evidence with the Council of Europe and the Global Prosecutors Ecrime Network. Today, Mauritius is still participating in the UN Group of Government Experts on Cyber Security through Dr. Kaleem Usmani. So, Mr Deputy Speaker, Sir, there is no wonder then that the Global Security Index of 2020 ranked Mauritius 17th globally, side-by-side with Norway and ahead of Belgium, Brazil and many other more developed countries than we are, Mr Deputy Speaker, Sir.

In fact, this has reflected commitment of Mauritius towards continually improving its cybersecurity framework. One week ago, I personally met the Secretary General of the ITU in Geneva, Mr Deputy Speaker, Sir and I can tell you that he was full of praise with all the accomplishments of our small country in the domain, in the sector we are now talking about.

Mr Deputy Speaker, Sir, indeed, in the past 10 years, I have seen a revolution in communication technology. The rise on the internet and social media, as we know, has offered new opportunities for all of us to engage with one another in an unprecedented scale.

There are today, Mr Deputy Speaker, Sir, 3.5 billion people online and the digital world is estimated to be up at 44zetabytes. Mr Deputy Speaker, Sir, when the SDGs will come to maturity in 2030, some 90% of the projected world population of around 7.5 billion are expected to be online. Digital solution will be increasingly resorted to and reliance on a safe internet will be the norm, Mr Deputy Speaker, Sir. We all know that the world's population has shifted online through social media and work practices such as work from home and this demands a much higher level of security so as not to compromise a safe environment, whether privately or professionally.

What we must understand Mr Deputy Speaker, Sir, is that as our country tries to grow the digital economy, the digital ecosystems in place will need to be overhauled, to mitigate growing cyber risks, legal and regulatory frameworks must keep pace, Mr Deputy Speaker, Sir, with technological developments and evolving threats. People must be assured of being able to log in into the digital world in a secure manner.

Therefore, Mr Deputy Speaker, Sir, the identification of what constitutes illicit activities in the cyberspace, the definition of procedural tools to investigate, to prosecute and to enforce legislation, the establishment of cyber security baselines and compliance mechanism for all stakeholders and the need to ensure consistency with international obligations will necessary drive us to continually reassess the framework we have so that we may be able to keep up with development.

That is why, Mr Deputy Speaker, Sir, there is a need to agree on the basic requirements that public and private stakeholders must hold and on what harmful actions need to be stopped by legal instrument. For example, we have heard during the debates online racism, xenophobia, child pornography or harassment. Mr Deputy Speaker, Sir, there is a continuous need to harmonise security standards and to remain updated to be able to participate in the wider cybersecurity ecosystem, remembering that cybersecurity remains today a transnational issue. While the digital economy is geared to bring immense economic and societal benefits and to help move the world forward, they need to be shielded as cyber threats will grow in the years to come, Mr Deputy Speaker, Sir. We know that cyberattacks have grown worldwide even during the pandemic.

Mr Deputy Speaker, Sir, around the world, cyber incidents have grown to such an extent and if we take an example, France, recorded more than 370 cyber incidents last year with 9 being major incidents. 80% of financial institutions, listen to that, Mr Deputy Speaker, Sir, 80% of financial institutions across the world have been the subject of an increase in cyberattacks in 2020.

The Swiss Financial Market Supervisory Authority makes reference to a sharp rise in the number of attacks during the pandemic namely, phishing, malware and ransomware. It is important therefore, Mr Deputy Speaker, Sir, to strike a balance between the protection of

privacy and civil liberties and Government and business and security concerns and the need for greater cooperation across frontiers.

Mr Deputy Speaker, Sir, to come to the legislation itself which we have today, which we are all examining today. I think it would be interesting to have a glance again at what exists in terms of cybersecurity and cybercrime legislation in developed and democratic countries and this will help us to assess whether the Opposition has been right from day one in all the arguments they have canvassed before you, before this House, Mr Deputy Speaker, Sir.

A lot has been said on the severity, the disproportionate nature of the punishment provided for in this Bill and I will come to this specific point later in my speech. However, Mr Deputy Speaker, Sir, I wish to share with the House a few realities that exist elsewhere in the world and from which, I think, we need to draw inspiration and we need to compare. Recently in Germany, a country with a robust legislative framework on cybersecurity and cybercrimes, a Court gave a suspended sentence of 1 year and 8 months to a British hacker for hire who confessed to a cyberattack that knocked out the internet around a million Dutch Telecom customers. The Chief Commissioner of Germany's Federal Crime Office reacted to this decision by stating that the sentence should have been a minimum of 10 years. And he said –

“Professional hackers can cause enormous damage. The represented danger for security and the economy, that should be reflected in the sentence as well.”

Mr Deputy Speaker, Sir, our Government is not the odd man out when we are responsibly aiming at making sentences against cybercrimes as tough as possible for them to have a high deterrence effect.

Let me remind the House that for some offenses related to computer and personal data, the fine can go up to EUR20 million, Mr Deputy Speaker, Sir, as per the 2021 German IT Security Act. In Singapore, for example, the Cybersecurity Act of 2018, owners of online platforms can be imposed a fine of SGD100,000, merely for failing to report a cybersecurity incident.

Mr Deputy Speaker, Sir, when I have gone through all the other jurisdictions, I searched but I never found any opposition political party there lamenting the severity of disproportionate nature of the strict sentences imposing their laws. Nobody gave an argument such as how can an

online platform operator monitor thousands of comments on social media, failing which a heavy fine or term of imprisonment is imposable by a Court of Law. This is probably, Mr Deputy Speaker, Sir, why Singapore is ranked 10th in Global Cybersecurity.

In South Africa, Mr Deputy Speaker, Sir, the recently proclaimed Cybercrimes Act of 2020 provides for very, very strict imprisonment sentence up to 15 years, according to Section 19 of this Act for similar offenses as our Bill is going to provide. In the UK, Mr Deputy Speaker, Sir, the Computer Misuse Act of 1990 provides for sentences that go up to 14 years of imprisonment. In 2014, Mr Deputy Speaker, Sir, the UK Government even said that it wants to hand out life sentences to anyone found guilty of a cyber-attack that has catastrophic effect. Therefore, why then so much fuss by the Opposition in and outside Parliament when the proposed Bill attempts to provide a maximum sentence of 20 years for cybercrimes that will be judged by an independent and a proper Court of Law in our country?

Mr Deputy Speaker, Sir, Members of the Opposition have referred to specific provisions of the Bill and specifically Section 23 related to undesirable content. Hon. Mohamed has given various scenarios as to how these provisions would be used by the Government as a political tool and more in the vengeful manner - if I have to tease out what they both meant to say in their respective interventions. Mr Deputy Speaker, Sir, to all the arguments of the Opposition, the hon. Members of the Opposition and their apprehensions as well as their anticipated scenarios, I will only state that we live in a democratic country where separation of powers is a constitutional pillar to which our Government adheres without fail. The Mauritian Judiciary forms part of this amazing system and it is their role to see whether or not any section of this Bill, when it will become an Act, has been violative and has imposed unjustified punishment. They are the best party to judge whether a comment is undesirable, deceptive or whether an operator has failed to monitor the online platform and with what effects and consequences.

Members of the Opposition, when I have listened to them, Mr Deputy Speaker, Sir, or read their intervention, have almost in their argument reduced the role of the Judiciary to ridicule by merely inferring the most far-fetched literal meaning to the interpretation of statute provisions which any law school will fail you if you employ these types of reasoning in your assignment of statutory interpretation, but we can understand this was done for political gain, Mr Deputy Speaker, Sir, but let us not disrespect, undermine and underestimate our judicial system and what

has been happening since the beginning of the debates, the Opposition has been opposing for the sake of opposing, Mr Deputy Speaker, Sir.

I believe that there is no need for any Member of the Opposition to substitute himself or herself in the place of the Judiciary and to pre-empt how this Government is going to use this Bill supposedly in its advantage because, Mr Deputy Speaker, Sir, the arguments on this issue seems to be filled with chimeric, imaginary and far-fetched conspiracy theories again simply to hinder, to obstruct the setting up of a critical piece of legislation which our country badly needs, Mr Deputy Speaker, Sir.

Hon. Uteem in his speech, last week, seemed much worried with the penalty imposed by the proposed Bill, which he has qualified as being disproportionate. I believe that he has reached such a conclusion by comparing the penalty of one offense under this Bill with the same offense, but without using IT and computers provided for by another piece of legislation such as the criminal code. If failing to understand how, for example, cyber extortion is punishable by a maximum of 20 years of imprisonment under this Bill whereas extortion under the penal code is punishable by a term of imprisonment not less than 2 years when committed on a minor. While one can get into a debate of not less than 10 years can also mean up to 20 years, contrary to the reading of hon. Uteem. I will be fair to him and focus on the penalty under the Criminal Code which is substantially lower, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, sitting in the comfort of his house, a cybercriminal can commit an offense of cyber extortion much easier compared to a traditional act of extortion. That cybercriminal may have a wider choice of victims at his or her disposal, children, minors, adolescents, young adults or elders and if that cybercriminal is a professional hacker, there is a likelihood that he or she will leave behind lesser evidence compared to a traditional offense of extortion. It is much easier, Mr Deputy Speaker, Sir, for a cyber-extortionist to hold very private and confidential files or data or a company or a business hostage until a ransom is paid. I believe that the same argument can apply for his second example of forgery. I am confident that nobody in this House will disagree with me that committing an offense of forgery using a computer is much easier, and therefore, more serious and consequential than a traditional offense of forgery.

Mr Deputy Speaker, Sir, when the offense gets more and more complicated, much and much easier to commit and with a deadlier potential of harm to be caused to victims, I am

persuaded by the fact that the hon. Member who is himself a seasoned barrister finds it surprising to learn that the proposed Bill is providing for much more serious and higher penalties for cybercrimes with the aim of enhancing cyber security for all Mauritians. We are all aware of this principle of proportionality, Mr Deputy Speaker, Sir, regarding sentencing and the stand of our Judiciary on this matter, but we must also be aware that cybercrimes and traditional crimes are two distinct issues requiring a differential treatment and punishment. This is exactly what this Bill is intending to bring on the table, Mr Deputy Speaker, Sir, and I have to say that the hon. Member may be having an erroneous reading of Article 15 of the Budapest Convention of the need of incorporating the principle of proportionality.

If a person has a fake profile, which has always remained inactive and was never used by that person and yet is jailed for 20 years, this could violate Article 15 without any doubt, but if you commit a forgery using a computer with tremendous harm to the victim and you are sentenced for 20 years while extortion as a traditional under the penal code is lesser in term of punishment, I do not believe that the principle of proportionality, as provided in the Budapest Convention, is being violated, Mr Deputy Speaker, Sir. Therefore, we should refrain from bringing forward arguments just for the sake of arguing or opposing, Mr Deputy Speaker, Sir.

Another point raised is with regard to Section 16 concerning ‘using fake profile to cause harm’, I must admit that the example given by my hon. friend Uteem to illustrate his point about a Liverpool fan using a fake profile to poke fun on a Manchester United fan after the heavy defeat of the latter by the former is hilarious to say the least. Other Members on this side of the House have commented on this issue, but hon. Uteem is failing to distinguish between “having fun” and “causing harm” Why would someone use a fake profile which I consider as a very serious matter, the mere fact that you have a fake profile to have such harmless fun around football.

I firmly believe, Mr Deputy Speaker, Sir, that the Police, the Judiciary and other Enforcement Authority or Regulatory Bodies do know how to make a distinction between sportingly teasing someone and causing harm using a fake profile.

Mr Deputy Speaker, Sir, the hon. Member also relied on the case of Seegum v.s the State of Mauritius whereby Section 46 (h)(2) of the ICT Act was adjudicated, as we all remember, was

decreed to be unconstitutional. He has used this decision to confidently infer that Section 16 of the proposed Bill will meet a similar fate.

Allow me first to mention, Mr Speaker, Sir, that if it does, as a responsible Government and a firm believer of the sacrosanct principles of the Separation of Powers, this Government will abide by the decision of the Court as we did this time also, but we are not yet here. Let me argue this point very briefly. In the case of Seegum what was unconstitutional was the lack of clarity and the vagueness on the Act of using a computer or any IT device to cause annoyance and that being a punishable offence. But under Section 16 of the Proposed Act, the wordings are very clear, Mr Deputy Speaker, Sir. Using a fake profile to cause harm, again, I do not see how these two provisions are comparable. The hon. Member seems unsatisfied with the definition of 'harm' as being too broad. However, he seems to accept the same definition under the Children's Act since it is here about the protection of children.

So, I believe it suffice to say that children are perhaps the most frequent, easy and unfortunate victims of cybercrime. Therefore, what is the harm of adopting the same definition as the Children's Act.

Finally, Mr Deputy Speaker, Sir, the hon. Member had an issue with Section 21 and 23 of the Proposed Bill. Section 23 requires the administrator of an online account to be more responsible and to moderate undesirable contents while Section 21 discourages infringement of copyrights and related rights at the risk of criminal sanctions. What is worrying me, Mr Deputy Speaker, Sir, is that the hon. Member seems content to justify this objection to Section 21 by stating, and I quote -

“How many young people will be caught by this provision? How many kids download music from their internet?”

Therefore, remove Section 21 as it is too dangerous and allow illegal downloading of music, this is what the hon. Member is proposing. Other Members on this side of the House have also commented on this Section, Mr Deputy Speaker, Sir. Our artist community will be worried after hearing such arguments from the Opposition and from hon. Uteem, I am sure. But I think hon. Uteem missed out the word 'for gain' to be found in the Act which we are examining.

The Deputy Speaker: Hon Minister...

Mr Ganoo: Let me conclude to say the following: that in this House...

(Interruptions)

I have two more minutes, Mr Deputy Speaker, Sir. I have, several times, during various debates, referred to the process of limitation of rights, how rights are not necessarily absolute and how they can be limited, provided that the limitations are necessary, legitimate, provided by the law and proportionate. Our Government firmly believes, Mr Deputy Speaker, Sir, that the proposed Bill is perfectly aligned with the above parameters when the freedom of expression of the Press is seemingly being redefined for a better and safer Mauritius.

Mr Deputy Speaker, Sir, indeed a lot has been said by the Opposition on this issue of Human Rights and Constitutional freedom. A lot of motives are being imputed during the debates, Mr Deputy Speaker, Sir. A lot of *procès d'intention* have been projected.

M. le président, les soi-disant pontifes de la liberté individuelle et les défenseurs de droit de l'homme, malheureusement, eux-mêmes, avec un passé lourd, sont montés sur leurs grands chevaux. They have attempted, with all their fake passion, to defend those hackers, harassers, cyber-pirates, who lurking in the dark, Mr Deputy Speaker, Sir, cowardly have been attacking innocent, defenceless and young people. I am reminded of one famous sentence, Mr Deputy Speaker, Sir-

« Oh liberté, que de crimes on commet en ton nom ! »

When we have reached this stage of the debates, Mr Deputy Speaker, Sir, - I repeat it, I have listened objectively to the two sides of the House - to me, the verdict is clear, Mr Deputy Speaker, Sir. I say that because, I repeat cyberspace is not a new wild west, where it is a free for all rodeo. This Bill is an inspiration of what international law has provided us in terms of guide posts, with respect to unacceptable cyber behaviour. Mr Deputy Speaker, Sir, digital technology allows...

The Deputy Speaker: Hon Minister, with all due respect, I am informed by the Whip of the Government as to time allocated. We are well beyond it.

Mr Ganoo: I conclude, Mr Deputy Speaker, Sir.

The Deputy Speaker: I am very grateful. Thank you very much. I am so grateful. Please!

Mr Ganoo: Yes, Mr Deputy Speaker, Sir, we are all aware of the threats and risks that under the guise of combatting online disinformation and misinformation, freedom of expression may be targeted and desecrated. Yes, Mr Deputy Speaker, Sir, we are all agreeable to the fact that *la liberté d'expression ne peut être sacrifiée sur l'autel de la désinformation*.

Mr Armance: If I may, please.

The Deputy Speaker: Hon. Minister!

Mr Ganoo: But we have drawn....

(Interruptions)

The Deputy Speaker: Order! I have a point of Order. I will take it.

Mr Armance: It is my right to raise a point of order in the House. Mr Deputy Speaker, Sir, I have been informed by the Government Whip Office that your good office has allowed 20 minutes per MP to debate on this Bill, unfortunately, the hon. Minister is going lengthily on the Bill. It is more than 35 minutes now. So, I think it is very unfair and I refer to Section 50 of the Standing Order and I believe you have to take the correct and appropriate action.

The Deputy Speaker: Thank you very much. I do take note of your point. This is why I drew the attention of the hon. Minister. He is a senior Minister and ex. Leader of the Opposition. I have been minded to allow him some more minutes, in fact, 10 more minutes above time. I sincerely hope that you can conclude very soon.

Mr Ganoo: Mr Deputy Speaker, Sir, I was saying that we know where to draw the line and we have drawn the line at the right time. This Bill has refrained from taking disproportionate measures like in terms of shut downs, in terms of unjustified censorship, violative of freedom of expression.

On this side of the House, Mr Deputy Speaker, Sir, we trust the people of this country. At the end of the day, it is the people of this country who will choose because they are the collective memory and they will remember that on this side of the House, none of us in our political career, amended the Constitution to postpone general or by-elections, censored the Press, jailed political opponents and stifled trade unionists, Mr Deputy Speaker, Sir. Yes, at the end of the day, they will choose as I said and the people who have the liberty to choose, Mr Deputy Speaker, Sir, will always choose liberty. I have done. Thank you.

The Deputy Speaker: Thank you very much. I will suspend for 30 minutes.

At 8.13 p.m., the Sitting was suspended.

On resuming at 9.01 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Thank you very much. Please, be seated!

Hon. Minister Balgobin!

The Minister of Information Technology, Communication and Innovation (Mr D. Balgobin): M. le président, je tiens à remercier les membres des deux côtés de la Chambre pour leur intervention sur les débats sur cet important projet de loi, d'autant plus que la cybersécurité et la cybercriminalité sont des sujets qui, de nos jours, touchent la population dans son ensemble, étant donné que le cyberspace fait partie intégrante de notre quotidien.

Le nombre d'intervenants et la qualité des débats auxquels nous avons eu droit, témoignent justement l'intérêt remarquable porté à cette thématique. D'ailleurs, lors de mon introduction, j'ai souligné les enjeux nationaux sur lesquels reposent ce projet de loi et j'ai mis l'emphasis sur l'importance d'avoir un regard qui dépasse le cadre de la politique partisane. J'ai aussi précisé que les critiques constructives seront prises en considération dans l'intérêt du public, qui est d'ailleurs le motif principal de ce Gouvernement, mais c'est dommage, M. le président, que certains membres de l'autre côté de la Chambre, ont, encore une fois, manqué une occasion de démontrer qu'ils ont la capacité d'aller au-delà de la politique démagogique, comme ils sont en train de le faire maintenant avec la COVID-19.

Je dois le dire, car certains points avancés par les membres de l'Opposition, ne tiennent pas la route. En manque d'arguments solides, ils ont vraiment tenté de semer la confusion aux yeux de la population en faisant croire que l'objectif de ce projet de loi serait de contrôler les réseaux sociaux. Mensonge, complètement faux et purement démagogique, M. le président !

Je l'ai dit et je le redis aujourd'hui, haut et fort, parce qu'ils n'ont rien compris. Ce projet de loi a pour but de renforcer la cybersécurité et de protéger chaque citoyen, surtout les plus vulnérables, contre toute forme de cybercriminalité et cela en conformité avec les engagements que nous avons pris auprès des instances régionales et internationales.

Au cours de mon intervention, j'avais énoncé en des termes non-équivoques que ce projet de loi n'était en aucune façon, et je le répète, en aucune façon associé au *Consultation Paper*

publié par l'ICTA en avril dernier. Je pense cependant que les Membres de l'autre côté de la Chambre n'ont pas été attentifs à mes propos car ils ont tous utilisé cet argument comme cheval de bataille et ont délibérément choisi de faire de la démagogie.

Certains ont même mentionné que le gouvernement est venu de l'avant avec un projet de loi en catimini, alors que d'autres y ont fait référence comme une loi pré-électorale. « *Eleksion deryer laport* », comme dit souvent certains.

C'est encore une fois des fabrications les plus farfelues des opposants à ce projet de loi.

Permettez-moi, M. le président, d'éclairer la lanterne de ceux qui choisissent de rester dans l'obscurité.

(Interruptions)

The Deputy Speaker: Order!

Mr Balgobin: Les discussions autour de ce projet de loi ont été entamées bien avant que l'ICTA ne vienne de l'avant avec ses propositions de *Consultative Paper*. Déjà, en juillet 2020, le Conseil des Ministres avait donné son aval pour l'élaboration de ce projet de loi qui permettrait à Maurice d'être en harmonie avec la Convention de Budapest. *And hon. Bodha, today, has suddenly waken up!* Soudainement. Parce qu'en juillet 2020, M. le président, il était là, assis là de cette côté de la Chambre. Il avait pris part dans la délibération du Conseil des ministres. *At that time, this law was nice, it was good. This law was okay. Today, when he is sitting on the other side of the House, he does not approve this law.*

Mr Deputy Speaker, Sir, the points raised so far has been wide-ranging and the principles and the practice of the proposed Bill have been debated. I will, now, take the opportunity to address as many of them as possible. I will start my closing remarks by focusing on those matters that relate directly to the Bill.

As some Members have highlighted, the Bill raises the security bar across the board and protects us against a whole range of threats including unscrupulous individuals in this country and even from outside, especially those who use technology to defraud people and steal depositors' money from the banks.

It will complement existing legislation by ensuring the security and resilience of the cybersecurity ecosystem on which not only our critical sectors, but also our everyday life, rely upon.

Mr Deputy Speaker, Sir, I am now going to talk about how much the Members of the Opposition have been erring on the false statements to create, I have been saying it from day 1, confusion and instil fear in the minds of the people.

To start with, let me elaborate on the “Principles of legality and proportionality of criminal offences and penalties”, as this is an issue which was raised by hon. Uteem as the first orator of the Opposition. My colleague, hon. Ganoo, has elaborated very well on that matter.

I wish to draw the attention of the House that this is not the first time that different laws provide for different offences with different penalties. For reference purposes, Mr Deputy Speaker Sir, I invite hon. Uteem to consult offences under Section 249 of the Criminal Code and Sections 14 and 18 of the Child Protection Act which both relate to child sexual offences, but they carry different penalties under the two enactments. And this, Mr Deputy Speaker, Sir, is recognised in the Interpretation and General Clauses Act, under Section 46 which reads as follows –

“Where an act constitutes an offence under 2 or more enactments, the offender shall be liable to be prosecuted under either or any of those enactments but he shall not be liable to be punished twice for the same act”.

Therefore, in relation to proportionality, I tend to think that hon. Uteem was in a state of confusion about the concept of proportionality in law. He is a Barrister, I am not. But I tend to think that he has a confusion.

And what does it mean when he compared offences under different enactments to argue about proportionality. Our case law is clear about this concept and this relates to the punishment fitting the crime. For the purpose of reference, I may refer him to the case of Philibert vs. State 2007, which provides an extensive explanation on the concept of proportionality.

Several Members have also highlighted sanctions provided in the Bill. The maximum of which vary from Rs100,000 to Rs2 m. in terms of fines and two (2) to twenty-five (25) years in terms of imprisonment.

Here, Mr Deputy Speaker, Sir, I wish to point out that any sanction imposed for any cybercrime case will be based on the seriousness of the offence. It is not that tomorrow somebody posts a defamatory content, he is getting 25 years of imprisonment. It is not like this. We have learned lawyers around. Everybody here in this House knows this. Seriousness of the offence will be determined by the Court, not by the Cybercrime Committee, not by the Minister, not by anybody else. It is determined by the Court which is the supreme legal body to impose fines and penal servitude. The House will also appreciate and I hope they appreciate the fact that the Judiciary system in Mauritius operates in total independence, fairness and transparency. So, if provision in the law has been made from 2 to 25 years or Rs100,000 to Rs2 m., it is the Court to decide, not any of us here sitting and debating on this Bill.

Mr Deputy Speaker, Sir, hon. Bodha referred to the preamble of the Budapest Convention which, *inter alia*, highlights the need to ensure a proper balance between the interests of law enforcement and respect for fundamental human rights as enshrined in the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.

Let me affirm that the drafting of the Bill has been done in adherence with these principles, with the help of the Council of Europe. Many Members from the other side of the House have repeatedly stated that the Bill is in breach of the Constitution. Hon. Bodha even went to an extent to say that this Bill would not even stand the test of constitutionality. But, at no point in time - I do not know if he is here, he is here - did he mention or did he provide any clarity and precision as to how this Bill violates the Constitution. It is very easy to come and say that it is anti-constitutional; it is not going to stand the test of constitutionality. But how? At least explain, give details, give reasons, and give clarity as to how it is not going to stand.

I fail to understand which clause of the Bill, Mr Deputy Speaker, Sir, that forbids people from enjoying online liberties. Maybe hon. Bodha is just repeating what his master is saying. Because this is what we heard in the press; this is what we heard in press conferences. And he comes and repeats it here: it will not stand the test of constitutionality.

When we put in the provisions for safeguarding our children against paedophile online activities, I put the question to this House: is this in violation of the paedophiles' freedom of expression. This is what they are saying? This is what they want to protect?

M. le président, taking actions against fake profilers who hide their identity to do harm online, is this a violation of the fake profilers rights now? This is what we are going to say? Do we need to give them online liberty to continue to attack vulnerable people, our seniors, and our children?

What about people who post inflammatory, heinous or racist contents online? What about them? Do the administrators of such an account not have a responsibility to take down the hate material if they have advised by the Police?

Do we think, at the eve of 2022 in this country, we are against fighting fake profile that causes harm, threatens public safety, and threatens national security? Well, if Members on the other side of the House want to condone such activities, then this would constitute a breach of constitutional rights of those victims. Not the other way round!

And we have heard debates in this House. All the orators of this side of the House have protected the victims; have thought for the victims, for vulnerable people, for children. And the contrary on the other side of the House, we have just seen defenders of fake profile, defenders of artist rights, just to mention a few.

Now, Mr Deputy Speaker, Sir, allow me to elaborate on Clause 16 of the Bill, which has attracted lot of attention during the debate.

This provision does not, in any way, breach the principle of legality since the word “harm” has been defined. Members of the Opposition, especially those with a legal background, will surely agree that the case that they have referred to, *Seegum vs. State of 2021*, the Court has found that old Sub-Section 46 (h) (ii) of the ICTA Act was in breach of the principle of legality, as the term “annoyance” was not defined; hence, it led to difficulties for a citizen to regulate his conduct.

But, here, this is not the case. Many orators have used that example just to say: what about the case in Court? People have won their case in Court because of “annoyance” was not defined, and so on. Here, it is not the case. And we believe that somebody who misuses a fake profile to cause harm, as defined in the Bill, knows that an offence is being committed. The conduct which is being criminalised is very clearly stated. There is, therefore, certainty, predictability, and absence of any arbitrariness.

Some said that the definition of “harm” was taken from the Children's Act. Hon. Uteem mentioned it. Yes, it is correct! The definition of “harm” has indeed been taken from the Children’s Act. And I congratulate my colleague, hon. Mrs Koonjoo-Shah for having brought in this House the Children’s Act for the benefit of the country.

Hon. Members should certainly be aware of the fact that harmonisation of definitions brings consistency among different pieces of legislation, and it is an important feature of the modern legal system.

Regarding the same clause 16, hon. Mohamed - I am sad he is not here today to listen to this summing-up - proposed that having a fake profile itself should be made an offence to avoid any online abuse. In fact, Mr Deputy Speaker, Sir, this proposal had been examined at the time when the team was drafting the Bill. However, this proposal could not be retained because this would restrict people who want to access social media platform and use a sobriquet, for example, instead of their names, but without any malicious motive, without the purpose to cause harm. That is why this Bill criminalises the misuse of fake profiles. And he was giving example.

Next to him, hon. Patrick Assirvaden - he is also not here today. The front bench of the Labour Party is absent as usual. We have to check our phones. Maybe there are some press conferences on the street happening right now. I don’t know.

While hon. Mohamed is saying that there should be no fake profile at all, his honourable friend next to him is defending a fake profile, fake news by the name of Paul Lismore. So, which is which? Which is which? The hon. Members are contradicting their own words! It is an irony happening over there.

Mr Deputy Speaker, Sir, I come to clause 23. There was an overwhelming debate on that particular clause, “Failure to moderate undesirable content”. Clause 23 is an attempt at shielding citizens from being misled, from incitement to violence, hate speech, fake news, misinformation and other sensitive content. Such a provision will act as a deterrent to those who will tolerate people having bad intentions of creating social unrest and endangering national security and public health and safety.

During his intervention on Tuesday, hon. Mohamed mentioned that he has gone through my profile, my Facebook page, and has said there are lots of happening. For example, he

mentioned that we are opening a new bridge in the constituency. It is good! He is doing our publicity to show Government is working. Hon. Hurreeram did the opening together with my colleagues of the constituency to repair an old bridge of 80s into a modern one for the benefit of the inhabitants. It is good! He is looking at those profiles. And he said there was another post where the Minister and his colleagues went to celebrate the centenary of a person. Also very good! He shows how the MPs of the region are down to earth and committed to their constituents. But then he said at one point in time he saw a comment that somebody wrote: “this is an incompetent Government”. Well, I went to look at it because I have not seen that particular comment. Well, today if I say it, he might say: “You know, you have deleted it, etc...” I give him the benefit of the doubt. And he said because somebody has put a comment, saying incompetent Government, tomorrow the Police will arrest the guy. This is what was said.

This law, Mr Deputy Speaker, Sir, this piece of legislation, this clause, does not say that at all. What does Section 23 say? Section 23 tells you that if an administrator of a page, somebody posts deceptive contents and deceptive contents have been defined in Section 23 –

- (a) is deceptive or inaccurate, posted with intent to defame, threaten, abuse or mislead the public;
- (b) threatens public health or public safety;
- (c) threatens national security; or
- (d) promotes racism.

If that person feels that the post brings him prejudice, he goes to the Police. So far nothing happens on that page. Nothing happens to the administrator, nothing happens to the Press. The Police does an enquiry and after the Police decided that this post is eventually against Section 23 (3), that is –

- “(c) threatens national security; or
- (d) promotes racism”, and so on and so forth.

Even though nothing happens, what do the Police do? The Police go and tell the administrator: “Look, this post is promoting racism in this country; you have to take it out.” When the administrator refuses to do so, it is then that this law applies.

What did he say? He said that somebody wrote on my Facebook account - 'Incompetent Government' and what should I do? I will go to the Police to tell the police to tell me to remove that content.

It is very easy. If on your Facebook account, somebody writes something nonsense, either you delete it or you ban the user or you hide it. The example he used was not correct. I will give you an example. He took an example on my Facebook page which, I think, he likes and adores. I will give an example of what exactly it is.

Mr Deputy Speaker, Sir, on 26 October at 11.24 a.m., hon. Mohamed comes to this House in a *trottinette* and it creates a buzz. Okay! Fair enough! And there is one Facebook account that has 300,000 followers called *Mopays.com* which posts the picture of hon. Mohamed

—

“Shakeel Mohamed s’y rend à trottinette.”

And I can table the document if you wish, Mr Deputy Speaker, Sir. It has been taken from the official page. That post received 5,600 likes, hearts, wow, angry and so on, it is called likes. 682 comments, 146 shares which goes viral! Very nice! I am happy for him. He likes such an act. Very nice! But when you go on those 682 comments, what do people write? Some people write very nice comments, some people write moderate comments and some people wrote simply, I would just quote one or two —

“This dude parks his car at MC, - most probably he is referring to Mohamed Chambers, I do not know - and went there instead of walking 5 minutes.”

Somebody else put his picture and it is not good because they are impersonating him. I am not saying it is good. They put his picture and they put the head of *Jadoo*. You know *Jadoo*, Mr Deputy Speaker, Sir? *Jadoo* is the character in a film whereby an extraterrestrial kind of people comes on earth and they are doing their fun.

(Interruptions)

Hon. Armance wants to see and he finds it very funny. And they are Members of the Opposition, one against another one. Fair enough! What I am trying to say....

(Interruptions)

The Deputy Speaker: Everybody just wait!

Mr Balgobin: Sorry, I am not giving way. I am not talking about conduct of anybody here. I am explaining Section 23.

(Interruptions)

An hon. Member: *Pe pran so part la!*

Mr Balgobin: No, I said it is not good. I am not saying it is good. I am saying it is not good.

The Deputy Speaker: Address to me! No cross-talking! If you have a point of order, I will listen. I think it is fair because he made reference and he has to ...

Mr Balgobin: What I want to say, Mr Deputy Speaker, Sir. If hon. Mohamed *se sent diffamé par ça*, those posts causing prejudice as per Section 23 (3) (a) of this Bill, because he feels that this content is misleading the public, that he is not *Jadoo*, he is hon. Shakeel Mohamed, he goes to the Police and he tells the Police: “Look, I have my picture impersonated there, this has to be removed.” The Police make an enquiry and sees that this is really causing prejudice to that hon. Member, then the Police asks the administrator of this page: “Look, you have to remove because that gentleman is hon. Shakeel Mohamed and not *Jadoo*.” Where the liberty of the Press is attacked in this section of the law? Nobody has explained to this House about Section 23 (3).

Now he continues. He said, - and I am quoting Hansard – that the Section 23(3) (a), for the purpose of this section, ‘undesirable content’ includes any online content that is deceptive. And he stops here. I am quoting hon. Mohamed –

“For the purpose of this section –

“undesirable content” includes any online content that –

(a) is deceptive...”

So the comment calling hon. Balgobin incompetent would be deceptive (...).”

What he fails to do, on purpose, he fails to continue on section 23 (3) (b) (c) and (d) because it is not only a content that is deceptive. We are talking about content that promotes racism that has to be taken out. We are talking about content that threatens national security of this country. We are

talking about content that threatens public health and public safety. So, do they want to say, Mr Deputy Speaker, Sir, that we should not take down such posts or such comments that are promoting racism in this country? Is this what they want to say?

So, Mr Deputy Speaker, Sir, I want to reassure the House that at no point in time, there is a violation of freedom of expression or an attempt to censorship in any respect of any media. It is purely instilling fear in the mind of the public. It is purely being demagogic just for people to get fear that this law is going to do content filtering, data monitoring, etc.

In his intervention, hon. Mohamed challenged Clause 8 (4) (c) on Unauthorised Inception of Computer Service and stating that, that particular clause is against the Convention of Budapest. According to him, the Explanatory Report of the Convention makes it unlawful for any person to go and intercept any communication unless he has a Judge's Order.

I think hon. Mohamed has not read the Explanatory Report in depth. The Report states in respect to interception that, I quote –

“The act is justified, for example, if the intercepting person has the right to do so, if he acts on the instructions or by authorisation of the participants of the transmission, or if surveillance is lawfully authorised in the interests of national security or the detection of offences by investigating authorities”.

This is exactly what is translated in the Bill in that very clause 8 (4).

Now, because hon. Mohamed, the learned lawyer, he mentioned that this clause is going to be challenged, this is not what the Budapest Convention writes. So, we wrote to the Council of Europe. We said - look, we have a hon. Member that is saying this clause is not correct and this clause violates human rights. Can you just please give us some light on this?

And I remind the House that the Council of Europe is the leading human rights organisation that protects democracy and rule of law. This morning, we received a correspondence from the Council of Europe, where this Clause is referred to, and I quote –

“This Clause is a good idea because it notifies people of the types of circumstances in which interception may be legitimate and where “without authorisation” does not apply.”

So, now we have hon. Members in the House that know more or pretend to know more than the supreme institution itself.

The Council of Europe has said it very clearly, Mr Deputy Speaker, Sir. This law does not violate any freedom of expression, human rights or democracy. I cannot be clearer than that.

It is also debated that Clause 21 on Infringement of Copyright and Related Rights is likely to criminalise someone for downloading pirated software, music files or videos from the Internet. I am not going to elaborate on this topic. I think my colleagues; hon. Toussaint and hon. Teeluck already spoke at length on this provision. While we are protecting our artists, the rights of artists, some Members of this House are defending that we need to have pirated videos, CDs, films, and music to be circulated everywhere and make money out of it. Well, I leave the population to judge and take cognizance of this.

Mr Deputy Speaker, Sir, now the National Cybercrime Committee. Hon. Uteem has talked about this, hon. Bodha, hon. Anquetil, they have all debated on the provision of this Bill for the setting up of a National Cybersecurity Committee, which according to them, will not operate in a fair and ethical manner.

Allow me to clarify again. I have debated on this lengthily in my Second Reading but let me say it again. At no point in time, Mr Deputy Speaker, Sir, will this Committee be involved in any investigation or any prosecution in cybercrime. They are not going to get involved. The apex committee is set up to ensure only policy override. There is a difference. That committee will be here to see how we can implement forthcoming strategies for the next 5-10 years, how we should ameliorate cybersecurity, how we should ensure that proper policies are being set.

Today, Mauritius is ranked number one in Africa in terms of cybersecurity. Why? For the very simple reason; since 2014 and a little bit before that, we have policies and strategies in place in terms of cybersecurity measures. And this is what this Committee does. Nothing at all regarding investigation or prosecution as they have been saying. This is the role of the Police and the judiciary, not the Committee. So, the Committee being appointed by the Prime Minister, by the Minister, by the Leader of the Opposition, whoever, does not change anything of the Committee because they have a very specific role.

Mr Deputy Speaker, Sir, hon. Ms Anquetil mentioned in her intervention that she has a lot of doubts on the Committee and so on and she said, and I quote from Hansard –

“Ce comité sera composé exclusivement de 13 membres proches du pouvoir dont le Chairperson sera nommé par le Premier ministre. En bref, aucun représentant indépendant de la société civile (...).”

But then I was a bit taken aback. I said let me go and check again. So, - I know it by heart by now - Section 3 (m) of the National Cybersecurity Committee says that a representative from the civil society, having experience in the field of cybercrime.

So, I think hon. Ms Anquetil's focus is only on my good friend, hon. Mrs Koonjoo-Shah because she cannot stand the good work happening over there and is only focusing there and omitted in the precious time that had been given to her to say that yes, indeed, there is *la société civile* present in this Committee, as she said.

Hon. Assirvaden said why there should be a representative from the Bank of Mauritius on this Committee? Mr Deputy Speaker, Sir, phishing attacks have ruined lives of people. I know personally a doctor, Dr. C. who came to see me and asked me to help him because he received an email. The email looked genuine from the bank and asked to click on the link. He clicked on the link. The next moment, all his money disappeared. He could not tell anybody of that attack at his home. You know what happened to Dr. C., Mr Deputy Speaker, Sir? After one week, he passed away because he could not bear this shock, this shame that he could have got in his society, in business family, because of phishing attacks.

And when we are putting authorities to cooperate, to give the inputs in such a Committee to help, they are asking questions: why there should be Bank of Mauritius? Why there should be FSC? Why there should be X, Y and Z? These people will bring in their expertise in the Committee that will, I say it again, work on strategies and policies, not investigation.

Mr Deputy Speaker, Sir, earlier today, hon. David - *David en français*, David in English, I suppose - has raised concern on how the interception of data will be done in real time and who will be assigned this responsibility of interception.

I would like to stress once again, as stated during my previous intervention, that clauses 29 and 30 of this Bill are part of the investigatory procedure. And I have given an example, and I take the firm example I just gave now. When the Police would enquire on that phishing attack, they need to get information. Where does the IP address come from? They have to get those

information to work. They need to get information what was written in that email. The Police can't get that. If the Police can't get that, therefore, the very fact that there is filtering, data monitoring is out. The Police has to get a Judge's Order and again, I impress on the transparency of the judicial and legal system in Mauritius, unless anybody else wants to challenge that our judiciary is not transparent. When they get a Judge's Order - and I am sure everybody will agree with me - a Judge's Order will not be given for political usage or for political whatever! It is an Order given based on merits of the case. It is when the Police get that Judge's Order, they request the ISP to give information of that real time collection, of that material time. Not to go and listen to everybody what they are talking about - *l'alliance* on, *l'alliance* off! No! *Espoir*, *Désespoir*! No! Hon. Bodha will become Prime Minister or not! No! It is going to intercept that particular data for the enquiry. This is clause 29 and clause 30. And I said these clauses are present in our current legislation.

Section 15 of the Computer Misuse and Cybercrime Act of 2003 has those provisions, and they have been adapted, upgraded, updated as per the Budapest Convention. This is as simple as that.

We should not, Mr Deputy Speaker, Sir, do all kind of *démagogies* and instil fear in the mind of people.

Mr Deputy Speaker, Sir, listening to our good friend, hon. Dr. Gungapersad. I do not know if he is here. He is here; he said he will wait for me before he leaves. At one point in time, I was asking hon. Hurreeram: are we in Mauritius or are we in Capetown? Because I thought, at one point in time, we were debating on the South African Cybercrime Law because he was elaborating a lot on the cybercrime and cybersecurity law of Africa and that we need, taking that for example, as reference, to contextualise and adapt our law to the local realities.

Let me tell hon. Dr. Gungapersad, for the sake of informing him, that the provisions that he mentioned in the South African Cybercrimes and Cybersecurity Act are already in Part IV of the Bill. So, he is telling us over here: look at what they are doing over there, around nice vineyards and nice mountains in Capetown, debating Cybersecurity Act! We should take example over some nice *Merlot* and *Cabernet Sauvignon*, but these provisions he mentioned are here in Part IV of the Bill.

Mr Deputy Speaker, Sir, since day one I have been saying: let us stop doing *démagogies*. This is beyond party politics, hon. Members! There is nothing, I am saying it openly here, it is being recorded in Hansard. There is, at no point in time, liberty of expression that is *menacé*. There is no data filtering; there is no content monitoring that is happening with this law. And at one point in time, after coming out from the South African Parliament, I thought I was in an English Literature class, about Macbeth, Shakespeare, etc.

Mr Deputy Speaker, Sir, *ils sont à côté de la plaque complètement*. This Bill serves for a purpose, and the very simple purpose is to protect our children, protect our senior people, protect the vulnerable of this country from des *gens malintentionnés, des criminels en ligne*.

Mr Deputy Speaker, Sir, I am nearly finished, but I cannot just finish like this before telling what hon. Dr. Aumeer said. Hon. Dr. Aumeer referred to AFRINIC. AFRINIC is the Regional Internet Registry for Africa and yes, he has done his homework. We have five like this, all controlled by ICANN; one for Asia -Pacific, one for Europe, one for US, Africa, etc. But, as I told him, because there is a case in Court, the matter of *sub judice*, so I cannot elaborate on AFRINIC. But he has to understand one thing. AFRINIC business is not to go and investigate any matter. AFRINIC business is only one. AFRINIC allocates what we call IP addresses to ISPs; that is all that they do. AFRINIC is not an investigatory authority as I said. AFRINIC is an institution that provides IP addresses for ISPs, that is, Internet Service Providers. So, to make him comfort, Mr Deputy Speaker, Sir, the point that he raised, tomorrow AFRINIC will go and start filtering all those IP addresses, etc., is totally wrong.

Mr Deputy Speaker, Sir, allow me to conclude. I am confident that all members of this august Assembly will appreciate by now, at least I see hon. Lobine nodding his head, so I think he got the message. Even hon. Uteem by now. I think, by now, we will appreciate the importance and the pertinence of this Bill.

This Bill, Mr Deputy Speaker, Sir, is beyond petty politics. I have said it more than ten times I think, since day one. This Bill is not at all, in bold letters, going to do any filtration or data monitoring or *écoute* or anything of that sort. This Bill is there to save and secure utilisation of ICT in the cyber space, especially in the context of the growing digitalisation of the function of society. In the context of emerging technologies, we are talking about AI, we are talking about Blockchain, Internet of Things, Augmented Reality, Virtual Reality, Big Data, Data

Analytics, and so on and so forth, the fourth industrial revolution, everything that you may think of that turns around Information and Communication Technology.

What this Bill seeks to do is to plug cyber and data crimes. This Bill seeks to create a safe environment for the business community and the public. This Bill seeks to ensure that criminal activities in the cyberspace are dealt with by the law in a correct manner.

This Bill focuses on the security of the cyber ecosystem and it will enable us to protect our critical national infrastructure as well as shield our networks for years to come. With the vision and support of our Prime Minister and my colleagues from this side of the House, Mauritius will lead as a safe digital country for decades to come and will establish itself as a model not only for the region, not only for Africa, but a model for the whole world.

With this, Mr Deputy Speaker, Sir, I commend the Bill to the House.

Question put and agreed to.

Bill read a second time and committed.

COMMITTEE STAGE

(The Deputy Speaker in the Chair)

THE CYBERSECURITY AND CYBERCRIME BILL

(No. XV of 2021)

The Cybersecurity and Cybercrime Bill (No. XV of 2021) was considered and agreed to.

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

Third Reading

On motion made and seconded, the Cybersecurity and Cybercrime Bill (No. XV of 2021) was read a third time and passed.

ADJOURNMENT

The Deputy Prime Minister: Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 23 November 2021 at 11.30 a.m.

Mr Toussaint seconded.

The Deputy Speaker: The House stands adjourned. Adjournment Matters!

Hon. Uteem!

(10.02.p.m.)

MATTERS RAISED

CONSOLIDATED COVID-19 REGULATIONS 2021 - CONFUSION

Mr R. Uteem (Second Member for Port Louis South & Port Louis Central): Thank you, Mr Deputy Speaker, Sir. The issue I want to raise is addressed to the hon. Prime Minister, who is not here, but I am sure that the hon. Deputy Prime Minister will convey to him the concern I want to raise. It relates to the Consolidated COVID-19 Regulations 2021 made by the hon. Prime Minister under the Quarantine Act on 12 November 2021.

While we fully understand the need to break the change of transmission of the COVID-19 virus, we have no issue with restricting access by the public to certain places. The truth of the matter is that the Regulations, as correctly worded, is a source of confusion. For example, under Part 2, it is stated ‘events and any activities allowed to be carried out, religious events and ceremonies provided that no more than 50 persons are in attendance at a time’, which means that religious activities can be carried out provided that there are no more than 50 people. But another Section of the regulations, Section 2, under Part 1, Place of Worship, provided that no more than 10 persons can be in attendance at any one time. And this is creating a lot of confusion because it would seem to suggest that if you carry out a religious activity outside a place of worship, you can have up to 50 people, but if you carry the same religious activity inside a place of worship, whether it is a temple or a mosque or a church, you can have only 10 persons present, which is not very easy to understand the rationale.

So, in these circumstances, I would be grateful if the hon. Deputy Prime Minister can talk to the Prime Minister and see whether there is any kind of clarification that can be issued because this is creating a lot of confusion in the mind of the public.

Thank you.

The Deputy Speaker: Thank you. Hon. Deputy Prime Minister!

The Deputy Prime Minister: Mr Deputy Speaker, Sir, the point made by the honorable gentleman is well noted. He might wish to know that we have had, at the request of the Prime Minister, the opportunity of meeting a number of religious bodies to explain clearly the spirit behind the regulations. The Regulations say what they say and the prime objective is, of course, to guard against the spread of COVID-19 by trying to avoid any situations that carry the risk of contamination by the virus spreading.

At the end of the day, beyond any Regulations, what is important at this point in time for our country and for our people is to act responsibly to protect ourselves and all Mauritians against the virus.

The Deputy Speaker: Thank you. Hon. Dhunoo, please!

(10.04 p.m.)

**CITÉ ATLEE, GUSTAVE COLIN, DERBY & FREDERICK BONNEFIN
STREETS, CUREPIPE – BUS SERVICE**

Mr S. Dhunoo (Third Member for Curepipe & Midlands): Thank you, Mr Deputy Speaker, Sir. My request tonight is addressed to hon. Alan Ganoo, Minister of Land Transport and Light Rail, Minister of Foreign Affairs, Regional Integration and International Trade. It concerns the region of Cité Atlee, Gustave Colin, La Rue Derby and Frederick Bonnefin, Curepipe.

Actually, our Government is undergoing major projects of wastewater connection at Gustave Colin, Cité Atlee and La Rue Derby by the Wastewater Management Authority. The Road Development Authority, under the guidance of hon. Mahendranuth Hurreeram, is rebuilding the bridge at Atlee. Thus, the bus routes have been diverted on Frederick Bonnefin Street. Temporary bus stops have been placed. I am requesting the Minister to see with the TRMSU if an additional temporary bus stop could be placed near Poivre Street so that the inhabitants of Cité Atlee have less to walk downwards their residence, because it is very far. Thank you.

The Deputy Speaker: Hon. Minister, please!

The Minister of Land Transport and Light Rail, Minister of Foreign Affairs, Regional Integration and International Trade (Mr A. Ganoo): I have taken note, Mr Deputy

Speaker, Sir, of the request made by the hon. Member. I will certainly do the needful and will contact not only the TRMSU but also the NLTA, which is also responsible for the placing or displacing or relocating bus stops.

The Deputy Speaker: Thank you very much. Hon. Osman Mahomed!

(10.06 p.m.)

LENEPVEU LANE, PORT LOUIS - CLOGGED SEWER SYSTEM

Mr Osman Mahomed (First Member for Port Louis South & Port Louis Central):

Thank you. The issue I would like to raise is addressed to the hon. Minister of Public Utilities but, unfortunately, he is not here. So, I would like to ask hon. Ganoo, former Minister of Public Utilities, if he can transmit my request to him when he sees him next. It is regarding a severely clogged sewer system in my constituency, which perpetually causes a lot of problems to the inhabitants of that locality. And the problem is thus best summarised in a letter that the inhabitants there have addressed to the General Manager of the Wastewater Management Authority on 09 October 2021 and its title is “Severely clogged sewer line at Impasse Lenepveu for several decades”. Well, apparently a longstanding problem. So, I am going to table the letter so that the Minister can convey the message to his colleague. Thank you.

The Deputy Speaker: Hon. Minister!

The Minister of Land Transport and Light Rail, Minister of Foreign Affairs, Regional Integration and International Trade (Mr A. Ganoo): Thank you, Mr Deputy Speaker, Sir. I will certainly transmit the request of the hon. Member to my colleague, hon. Lesjongard.

The Deputy Speaker: Thank you very much. Hon. Ms Joanna Bérenger!

(10.07 p.m.)

COVID-19 SANITARY RESTRICTIONS - YOUTH - INDIVIDUAL OR TEAM SPORTS

Ms J. Bérenger (First Member for Vacoas & Floreal): Merci, M. le président. Ma requête s’adresse au ministre de la Jeunesse et des Sports. Un communiqué de son ministère a été porté à mon attention. Il date du 12 novembre et fait état des nouvelles restrictions par rapport aux mesures sanitaires. On peut lire au paragraphe 3 –

« Those aged under 18 and not fully vaccinated shall not be able to practice individual or team sports. »

Mais, M. le président, le problème est que les enfants, mis à part les adolescents à partir de 15 ans qui ont accès aux vaccins Pfizer, les autres ne sont pas éligibles à la vaccination pour la Covid-19. Et, on a déjà privé nos enfants d'école, on les a privés de vie sociale, et maintenant on les prive aussi d'activité physique. J'implore donc le ministre responsable de bien vouloir mesurer l'impact de cette restriction sur la santé physique et la santé mentale de nos enfants et de bien vouloir agir en conséquence. Merci.

The Deputy Speaker: Thank you. Hon. Minister!

The Minister of Youth Empowerment, Sports and Recreation (Mr S. Toussaint): Merci, M. le président. Si l'honorable membre est en train de faire référence à l'accès aux infrastructures sportives ou à la pratique de l'activité physique et sportive en plein air, etc. donc ce sont deux choses. Alors, la pratique de l'activité physique et sportive en plein air, le vélo, la natation à la mer; ce n'est pas interdit. Cependant, dans un souci de veiller à ce que nos jeunes ne soient pas contaminés par la Covid-19 - voilà, j'ai la copie là - et que nous puissions aussi, pendant cette semaine, faire un nettoyage complet des infrastructures du ministère gérés par la MSC. C'est un peu dans ce sens-là que nous avons décidé qu'à partir du 12 et pendant toute une semaine, nous n'allons pas donner l'accès à ces jeunes. Cependant, pas plus loin qu'aujourd'hui, une équipe technique au niveau du ministère est en train de voir et éventuellement si nous sommes un peu satisfait par rapport au nombre de contaminations de la Covid-19 dans le pays et aussi si tous les nettoyages, etc. ont été faits comme il se doit, donc il se pourrait que d'ici la semaine prochaine le comité technique nous propose quelque chose par rapport aux jeunes qui ne sont pas *fully vaccinated* pour qu'ils puissent avoir accès à nos infrastructures sportives, notamment les piscines, le centre de badminton, etc. Donc, le communiqué, c'était surtout par rapport à l'accès aux infrastructures du ministère. Donc, je le redis, nous avons étudié la situation cette semaine-ci afin de ne pas contaminer nos jeunes. Ils sont à la maison et nous allons voir comment cela évolue, et peut-être la semaine prochaine il y aura des recommandations que le comité technique de mon ministère va nous faire.

The Deputy Speaker: Thank you. Hon. Dr. Gungapersad!

(10.11 p.m.)

SC & HSC EXAM FEES - PAYMENT DEADLINE - EXTENSION

Dr. M. Gungapersad (Second Member for Grand’Baie & Poudre d’Or): Thank you, Mr Deputy Speaker, Sir. My request is addressed to the hon. Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology. Currently, private candidates and students taking the SC and HSC for a second time have been asked to pay for the exam fees between 22 to 26 November, that is, during the next week. My humble request to the Minister is to liaise with the Director of the MES and to seek a reasonable extension of this deadline, because many families will need time to arrange for the money, especially in this difficult financial situation. Thank you.

The Deputy Speaker: Hon. DPM!

The Deputy Prime Minister: Mr Deputy Speaker, Sir, I shall convey the concern of the hon. gentleman to my colleague, the Minister of Education.

The Deputy Speaker: Hon. Bodha, please!

(10.12 p.m.)

MITD TRAINEES – COVID-19 PROTOCOL

Mr N. Bodha (Second Member for Vacoas & Floreal): Thank you, Mr Deputy Speaker, Sir. My request was addressed to the Minister of Labour, Human Resource Development and Training but he has just left. It is with regard to trainees attending the MITD classes. I think there is a confusion as regards the protocol, as to whether the classes are online or whether the trainees have to attend those classes at the MITD. So, I am making a humble request to the Minister so that we can have a clear protocol as to whether the trainees should attend the courses or whether these courses are going to be provided online. Thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Thank you. You shall take the request?

The Deputy Prime Minister: Mr Deputy Speaker, Sir, the point shall be conveyed to hon. Minister.

The Deputy Speaker: Hon. Aadil Ameer Meea!

(10.12 p.m.)

ONLINE CLASSES – GRADES 7, 8 &9

Mr A. Ameer Meea (Third Member for Port Louis Maritime & Port Louis East):

Thank you, Mr Deputy Speaker, Sir. The issue I am raising tonight is addressed to the Minister of Education. Although she is not there, I am sure her colleague will take my request on board.

As the House is aware, presently online courses are being conducted for students from Grades 10, 11 onwards and I do not know for what reasons there are no online courses for Grades 7, 8 and 9. And the more so, for Grade 9 there will be a national exam, which is called the NCE. Though audiovisual programmes are being broadcasted on MBC, this is not catering for the needs of students for Grades 7, 8 and 9. And, Mr Deputy Speaker, Sir, comparatively in private schools, students of all Grades have been following online classes. So, I would urge the Minister to do needful so that the students from Grades 7 to 9 could follow online classes so that they can catch up with the syllabus. Thank you.

The Deputy Speaker: Thank you. Hon. DPM!

The Deputy Prime Minister: The request will be conveyed to the Minister.

The Deputy Speaker: Thank you very much. Have a safe trip. *Bon week-end à vous!*

At 10.14 p.m., the Assembly, was, on its rising, adjourned to Tuesday 23 November 2021 at 11.30 a.m.