



**SEVENTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**FIRST SESSION**

**TUESDAY 15 DECEMBER 2020**

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## THE CABINET

(Formed by Hon. Pravind Kumar Jugnauth)

Hon. Pravind Kumar Jugnauth	Prime Minister, Minister of Defence, Home Affairs and External Communications, Minister for Rodrigues, Outer Islands and Territorial Integrity
Hon. Louis Steven Obeegadoo	Deputy Prime Minister, Minister of Housing and Land Use Planning, Minister of Tourism
Hon. Mrs Leela Devi Dookun-Luchoomun, GCSK	Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology
Dr. the Hon. Mohammad Anwar Husnood	Vice-Prime Minister, Minister of Local Government and Disaster Risk Management
Hon. Alan Ganoo	Minister of Land Transport and Light Rail
Dr. the Hon. Renganaden Padayachy	Minister of Finance, Economic Planning and Development
Hon. Nandcoomar Bodha, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Mrs Fazila Jeewa-Daureeawoo, GCSK	Minister of Social Integration, Social Security and National Solidarity
Hon. Soomilduth Bholah	Minister of Industrial Development, SMEs and Cooperatives
Hon. Kavydass Ramano	Minister of Environment, Solid Waste Management and Climate Change
Hon. Mahen Kumar Seeruttun	Minister of Financial Services and Good Governance
Hon. Georges Pierre Lesjongard	Minister of Energy and Public Utilities
Hon. Maneesh Gobin	Attorney General, Minister of Agro-Industry and Food Security
Hon. Yogida Sawmynaden	Minister of Commerce and Consumer

	Protection
Hon. Jean Christophe Stephan Toussaint	Minister of Youth Empowerment, Sports and Recreation
Hon. Mahendranuth Sharma Hurreeram	Minister of National Infrastructure and Community Development
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Hon. Soodesh Satkam Callichurn	Minister of Labour, Human Resource Development and Training
Dr. the Hon. Kailesh Kumar Singh Jagutpal	Minister of Health and Wellness
Hon. Sudheer Maudhoo	Minister of Blue Economy, Marine Resources, Fisheries and Shipping
Hon. Mrs Kalpana Devi Koonjoo-Shah	Minister of Gender Equality and Family Welfare
Hon. Avinash Teeluck	Minister of Arts and Cultural Heritage
Hon. Teeruthraj Hurdoyal	Minister of Public Service, Administrative and Institutional Reforms

## PRINCIPAL OFFICERS AND OFFICIALS

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Deputy Speaker	Hon. Mohammad Zahid Nazurally
Deputy Chairperson of Committees	Hon. Sanjit Kumar Nuckcheddy
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**MAURITIUS**

**Seventh National Assembly**

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**FIRST SESSION**

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**Debate No. 38 of 2020**

**Sitting of Tuesday 15 December 2020**

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

**The National Anthem was played**

*(Mr Speaker in the Chair)*

**PAPERS LAID**

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

**A. Ministry of Land Transport and Light Rail**

The Motorways and Main Roads (Amendment No. 2) Regulations 2020.  
(Government Notice No. 296 of 2020)

**B. Ministry of Finance, Economic Planning and Development**

(a) The Customs Tariff (Amendment of Schedule) (No. 5) Regulations 2020.  
(Government Notice No. 294 of 2020)

(b) The Income Tax (Amendment of Schedule) (No. 4) Regulations 2020.  
(Government Notice No. 295 of 2020)

**C. Attorney General**

**Ministry of Agro-Industry and Food Security**

The Sugar Industry Pension Fund (Defined Contribution Pension Fund)  
Regulations 2020. (Government Notice No. 297 of 2020)

**D. Ministry of Commerce and Consumer Protection**

The Annual Report of the State Trading Corporation for the Financial Year 2018/2019.

**E. Ministry of Arts and Cultural Heritage**

The Annual Report and the Report of the Director of Audit on the Financial Statements of the Bhojpuri Speaking Union for the year ended 30 June 2019.



## MOTION

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

**The Prime Minister:** Mr 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.

**Mr Seeruttun seconded.**

*Question put and agreed to.*

## STATEMENTS BY MINISTER

### ANTI-DRUG AND SMUGGLING UNIT (ADSU) – BUDGET ALLOCATION

**The Prime Minister:** Mr Speaker, Sir, I have two Statements to make. Firstly, I wish to make a Statement in response to supplementary questions put by hon. Lobine and hon. Abbas Mamode following my reply to Parliamentary Questions B/979, B/980, B/984, B/986 and B/989 at the Sitting of Tuesday 08 December 2020.

In his supplementary question, hon. Lobine queried as to why the budget allocated to combat drugs has decreased from Rs287 m. to Rs253 m. I wish to set the records straight. As stated in my replies, my Government has continuously increased the budgetary provision of the Police Department, and, pertinently, the budget of the Anti-Drug and Smuggling Unit (ADSU). The relentless efforts made by my Government to combat the drug scourge and maintain law and order are unprecedented in our history. In fact, and indeed, the accurate figures vindicate my unflinching determination to eradicate the drug problem for a safe and secure Mauritius.

For the Financial Year 2019/2020, the budget allocated to the Police Department was Rs8.8 billion with a budgeted provision of Rs287 m. for the ADSU compared to the budgetary provision made as follows -

- (i) for Financial Year 2007/2008 – Rs103.7 m.;
- (ii) for Financial Year 2010 – Rs148.5 m., and
- (iii) for Financial Year 2014 – Rs198.2 m.

I also wish to emphasise that it is only as from Financial Year 2016/2017 that the budget allocated to ADSU crossed the figure of Rs200 m., as follows -

- (i) for 2016/2017, it was Rs215.5 m.;

- (ii) for 2017/2018, Rs240 m.;
- (iii) for 2018/2019, Rs260.6 m., and
- (iv) for 2019/2020, Rs287.1 m.

As regard budgetary provisions for this Financial Year, in the wake of increasing uncertainties due to the COVID-19, the Ministry of Finance, Economic Planning and Development requested all Ministries and Departments to reduce their recurrent expenditure by 10% compared to voted provisions for Financial Year 2019/2020. In this context, the budget of the ADSU was accordingly reduced. The reduction in the budget allocated is certainly not abnormal, being given the exceptionally difficult economic situation faced by the country because of the unexpected havoc caused by COVID-19, which has also thrown the whole world off economic equilibrium. I must also bring out that this reduction has in no way impacted negatively on all the operational capabilities of the ADSU.

Equipping ADSU with the latest technological tools for combating proliferation of illegal drugs, including synthetic drugs, is a matter of priority for my Government. To this end, I am informed that since 2018 to date, an amount of Rs42.8 m. has been spent on the acquisition of state-of-the-art equipment for the ADSU with a view to further reinforcing its overall operational capacity. These equipment items are being used for effective communication during crackdown operations, gathering of digital evidence, profiling and tracking the movements of drug traffickers, and identification and detection of synthetic drugs. Moreover, a sum of Rs17.3 m. has been earmarked in this Financial Year for the acquisition of additional tools and equipment for the ADSU. Procedures are ongoing for the acquisition of same.

Mr Speaker, Sir, hon. Abbas Mamode queried whether more Police Officers are attached to the VIPSU than to the ADSU. I am informed by the Commissioner of Police that there are more Police Officers posted at the ADSU than at the VIPSU. As I have already indicated in reply to these PQs, during the course of its operations, the ADSU also benefits from the support of other units of the Police Force such as the Special Supporting Unit, Special Mobile Force, Commandos (*Groupement d'Interventions de la Police Mauricienne – GIPM*) and Marine Commandos (MARCOS), Police Dog Unit, and Police Helicopter Squadron.

### **AGALEGA - ACCESS - BANK GUARANTEE**

Mr Speaker, Sir, I have another Statement to make on the issue raised by hon. Ameer Meea on Adjournment at the Sitting of Tuesday 08 December 2020 regarding the submission of a bank guarantee of Rs403,000 by all persons proceeding to Agalega, including Agaleans coming to Mauritius.

Mr Speaker, Sir, the Outer Islands Development Corporation (OIDC) is responsible for the management and development of the Agalega Islands. Almost every three months, a vessel is chartered by the OIDC for the conveyance of passengers and cargo to and from Agalega. Passengers include Agaleans, officers of Government organisations on tour of service, and visitors.

In accordance with Section 24 of the Outer Islands Development Corporation Act, the Corporation has to provide suitable housing accommodation at Agalega for its employees and their families. The Corporation may also establish and maintain on the Outer Islands –

- (a) a ‘*crèche*’ for the children of the employees, and
- (b) a social welfare hall, a dispensary, and such other facilities as the Board may determine for the employees and their families.

I am informed by the General Manager of the OIDC that Agalega North and South Islands have each a Health Centre equipped with basic medical facilities. Each Centre is under the supervision of a resident doctor who is assisted by two nursing officers. In case of complicated health issues, including pregnancies and surgical interventions which cannot be treated in Agalega, patients are transferred by air to Mauritius for further medical treatment.

In October 2010, the OIDC sought legal advice as to whether it could legally stop a visitor from Mauritius to stay indefinitely with a relative in Agalega. In fact, there were two cases of visitors who decided to stay with their relatives in Agalega instead of going back to Mauritius. If such a trend were to continue, there would be pressure on the facilities available and provided by the Corporation, including healthcare.

In November 2010, the legal adviser of the Corporation from the Attorney General’s Office advised that, given that, and I quote –

“Agalega forms part of Mauritius, and the fact that there are no legislative provisions imposing restrictive conditions for the entry into Agalega, it will not be legally in order to stop a citizen of Mauritius entering into Agalega.”

The Attorney General’s Office further advised that, and I quote –

“as regards visitors, it would be appropriate that they should be made aware that the Corporation would not be liable for certain services, or that they may have to pay for certain services, in case the services provided for in Agalega are not adequate.”

In addition, the then General Manager of the OIDC was invited to consider this advice and thereafter seek the agreement of the Board. I am informed by the General Manager of the OIDC that the former management of the Corporation did not take any action in regard to that advice.

Mr Speaker, Sir, I am also informed that there has been an increasing number of cases of urgent medical evacuation from Agalega to Mauritius requiring the services of the Dornier aircraft. The current fees payable to the Police Department by the OIDC are approximately Rs400,000 per *sortie*. In case the Dornier is not available, the services of an aircraft from the Islands Development Corporation of Seychelles are retained against payment of a fee ranging between Rs400,000 and Rs600,000 per trip from Agalega for further treatment in Seychelles. This fee is inclusive of the cost of accompanying doctor and a nursing officer from Seychelles, medical treatment, board and lodging of the patient and his family member. It also covers air fare from Seychelles to Mauritius in favour of the patient and his family member.

Moreover, in the event the aircraft of Seychelles cannot be chartered, the OIDC has recourse to the services of the Transall aircraft from Reunion Island at the cost of Rs1.6 m. to Rs1.9 m. per trip for emergency evacuation of the patient to Mauritius. This fee includes cost of flight for medical staff from Reunion Island to Agalega and the accompanying relative.

The costs of evacuation for Agaleans are borne by the OIDC while concerned Ministries and other organisations meet the costs of evacuation of their respective officers. I am also informed by the General Manager of the Corporation that no decision has been taken with respect to visitors to Agalega requiring medical evacuation, as there have been no such cases so far.

Mr Speaker, Sir, following a request made by one visitor to stay for a period of three months with her daughter who is presently on a tour of service in Agalega for the

Meteorological Services, the O IDC, as a precautionary measure, initiated action in November 2020 requesting a bank guarantee to the tune of Rs403,000 to cover the costs of any unforeseen medical emergency back to Mauritius by plane.

The O IDC also proposes to request all visitors proceeding to Agalega to submit a bank guarantee of Rs403,000, which represents the costs of a medical evacuation by the Dornier Aircraft. This precautionary measure would be applicable only to Mauritian visitors and foreign visitors and would ensure that these visitors are financially responsible for their medical evacuation, should the need arise.

I wish to stress that the proposed bank guarantee would not apply to Agaleans residing in Mauritius or Agalega.

Mr Speaker, Sir, in view of complaints reported in the media, the Board of O IDC will meet in due course to consider this proposal along with other alternatives. In the meantime, the proposed measure is being put on hold.

I thank you, Mr Speaker, Sir.

## **PUBLIC BILLS**

### *Second Reading*

## **THE CHILDREN'S BILL**

**(No. XVII of 2020)**

**&**

## **THE CHILDREN'S COURT BILL**

**(NO. XVIII OF 2020)**

**&**

## **THE CHILD SEX OFFENDER REGISTER BILL**

**(NO. XIX OF 2020)**

*Order read for resuming adjourned debate on the Children's Bill (No. XVII of 2020).*

*Question again proposed.*

**Mr Speaker:** Hon. Minister Ganoo!

(11.46 a.m.)

**The Minister of Land Transport and Light Rail (Mr A. Ganoo):**

Mr Speaker, Sir, it is with great enthusiasm that I address this august Assembly on The Children's Bill, The Children's Court Bill and The Child Sex Offender Register Bill. I am, indeed, elated at the sort of contributing to the debates because the subject of *la Protection de l'Enfance* and Children's Right is one which I hold close to my heart as a citizen, a father, a lawyer and as an elective representative of the people.

Mr Speaker, Sir, in 1998, 22 years ago, when the Protection of the Child (Miscellaneous Provisions) Bill was debated in this House, I recall intervening from the Opposition bench for some 45 minutes and, during my intervention, I commented on several issues which have been addressed again in these present Bills.

On no less than eight occasions, by way of PQs, I questioned different hon. Ministers responsible for child welfare, on children related issues and the urgency of introducing a Children's Bill.

In 2013, I was then Leader of the Opposition; I again raised the issue of child welfare when a child was sexually assaulted in a place of safety. I did so during several press conferences. I have in my hands right now, excerpts from copies of my intervention. I quote –

*«La ministre de l'Égalité des Genres, du Développement de l'Enfant et du Bien-être de la Famille a passé un mauvais quart d'heure au Parlement ce matin, acculée par l'Opposition ; donc, le Leader, Alan Ganoo, a réclamé sa démission.»*

I have deliberately, omitted to name the Minister, Mr Speaker, Sir. Next extract:

*“Alan Ganoo souligne l'urgence d'amender le Child Protection Act. Le Mouvement Patriotique par le biais d'Alan Ganoo est revenu hier sur l'assassinat à Gros Cailloux du jeune Ritesh Gobin.*

I must, heartily, congratulate hon. Koonjoo-Shah, the officers of her Ministry; the Attorney General and his officers who have mustered all their efforts in order to present such felicitous Bills. I convey my appreciation and my thanks, also, Mr Speaker, Sir, to hon. Mrs Fazila Jeewa-Daureeawoo, former Minister of Child Welfare, because when one looks at the Children's Bill of 2019, one can conclude that she kick-started the whole process which has led to the introduction of this piece of legislation.

Mr Speaker, Sir, these three Bills are all encompassing and far reaching and address the multi-dimensional issues linked to the complex question of child protection, child neglect,

child abuse and many more but, more importantly, Sir, the Bills have taken into account, the international yardsticks namely the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and have successfully integrated and entrenched the four cardinal principles laid out therein. These principles which we know, Mr Speaker, Sir, are the best interests of the child, non-discrimination against the child, the survival and development of the child and the right of the child to be heard.

Mr Speaker, Sir, it would be apposite at this juncture to pay tribute to all these young innocent souls amongst others , Ayaan, Farida, Ritesh, Anita and to all the children who have lost their lives due to violence, neglect, ill-treatment, abuse and exploitation. It is with a heavy heart and sadness that today we think of them and the agony and sufferings that they had to endure.

M. le président, pertinemment, ce gouvernement, confronté à de telles atrocités sous la direction de notre Premier ministre, a décidé de pied ferme d'éliminer les abus et crimes perpétrés sur nos enfants. A plusieurs, la vie leur a été enlevée. D'autres ont été exploités, traumatisés ou meurtris sans pouvoir se défendre et sans rien demander si ce n'est que savourer le bonheur de l'enfance.

M. le président, ces projets de loi, savamment élaborés et scrupuleusement structurés, vont inéluctablement engendrer un changement dans notre paysage juridique mais aussi dans nos pratiques, dans nos mœurs et dans nos mentalités.

Indeed, Mr Speaker, Sir, the Children's Bill is a *chef-d'oeuvre* in terms of legislation, modern, visionary and sophisticated in its form and tenor.

Ces projets de loi, M. le président, sont articulés vers l'enfant et l'enfant seul, la protection de l'enfance jusqu'à l'âge de 18 ans en est la ligne directrice. Ainsi, la première partie du *Children's Bill* est consacrée à l'implémentation de la Convention internationale des droits de l'enfant et la Charte Africaine sur les Droits et le Bien-être de l'Enfant mettant en exergue *the best interests of the child and parental responsibilities*.

En second lieu, M. le président, le projet de loi crée le nouvel organisme, le Child Services Coordination Panel qui est investi du rôle de coordinateur pour toutes les activités liées à la mise en œuvre du projet de loi. Par la suite, sont énumérés une panoplie de délits, nouveaux et anciens, intitulés *Offences against Children*; les circonstances aggravantes entourant ces délits et accompagnées de nouvelles sanctions plus sévères. Et, dans la quatrième partie, nous retrouvons dans le projet de loi, M. le président, un volet dédié au

*Children in need of care and protection* qui propose la mise sur pied d'une série de différents *orders* qui n'existaient pas dans nos lois précédente à l'instar de l'*Assessment Order*, l'*Emergency Protection Order*, le *Placement Order*, le *Long-term Care Order* ou encore le *Contact Order*. Tout cela dans le but d'assurer la protection d'un enfant *in need of care and protection*.

M. le président, la loi étend aussi sa protection aux *children with serious behavioural concerns* en mettant en place le *Child Mentoring Scheme* et finalement, l'ultime partie de la loi traite de *child offenders, child victims and child witnesses* avec une série de nouvelles propositions.

Comme vous le constatez, M. le président, c'est un projet de loi murement réfléchi, habilement structuré et clairement élaboré. Voilà donc ce qui explique, je suppose, l'attitude consensuelle de l'Opposition et je n'ai noté aucune divergence fondamentale avec les trois projets de loi. On a même parlé de l'autre côté de la Chambre d'un bon texte de loi mais il me semble opportun de répondre à deux observations émanant des rangs de l'Opposition, M. le président. Certains d'entre eux ont critiqué le supposé retard dans la présentation de ce projet de loi. Je suppose que depuis l'Opposition a pris connaissance de ces trois textes de loi, elle a réalisé que la complexité, les subtilités, les multiples ramifications et l'envergure de ces projets de loi nécessitaient le temps qu'il a fallu.

*M. le président, je lisais récemment que Marta Santos avait commenté about the long process of drafting the Convention. She revealed that it had taken not less than ten years, Mr Speaker, Sir, ten years for the drafting of the Convention. It started back in the middle of the Cold War, in the International Year of the Child in 1979 and, after a decade, the Convention was ratified in 1989 and assented to in 1991. It stands to reason that this Government cannot be blamed for having taken the time it took for the elaboration of such accurate, comprehensive and detailed Bills that are being presented today. And I hope, Mr Speaker, Sir, that the Opposition has taken note that no less than 18 pieces of existing legislation have been amended for the introduction of these three Bills to the House.*

Mr Speaker, Sir, the second criticism concerns Clause 19(3)(b) with regard to the issue of consent of children under the age of 12. We have taken note that the hon. Minister has now clarified the situation and circulated an amendment to improve the legislation on that matter. Henceforth, as a result of this amendment, the age of consent whether for *attentat à la pudeur* or sexual intercourse with minors, will be 16 so that even if a child has consented to



any of these sexual acts before the age of 16, the offence will have been committed so much the better.

Nevertheless, I must come back to the argument made by some Members of the Opposition on that issue. I can understand that this clause needed to be redrafted, Mr Speaker, Sir, for better clarity, but what some Members of the Opposition have argued was totally absurd and wrong. They wanted the House to believe that clause 19 of the Bill was introducing now the age of consent at 12 for the offence of *attentat à la pudeur*. In fact, hon. Bérenger, I have looked at his speech, said the following, Mr Speaker, Sir -

*« En effet, ce que le texte tel que drafté semble dire, c'est qu'un enfant, à partir de 12 ans, peut donner son consentement, attentat à la pudeur (indecent act) à partir de 12 ans, comme ma collègue Joanna Bérenger l'a dit. »*

I go further and he said –

*« Comment un bon texte de loi, comme celui qui est devant nous, peut venir dire qu'un enfant, à partir de 12 ans, peut donner son consentement à un attentat à la pudeur, à un indecent act ? »*

*Et plus loin, il dit –*

*« La section 19 (3) (b), qui dit, ou semble dire qu'un enfant à partir de 12 ans peut donner son consentement à un attentat à la pudeur, à un indecent act. »*

Mr Speaker, Sir, I am just coming back on this issue because I want to make it clear that by so saying, it reflects a total misapprehension of the law because as we all know, Mr Speaker, Sir, the question of *attentat à la pudeur* and consent at the age of 12 was already in our Criminal Code, section 249(3) says –

“(3) Any person who commits an indecent act ‘*attentat à la pudeur*’, even without violence and with consent, upon a child of either sex under the age of 12 shall be liable to penal servitude for a term not exceeding 5 years.”

So, the law already created the fact that consent was at the age of 12 in cases of *attentat à la pudeur*. It was already the law, Mr Speaker, Sir. What the initial Bill did was, in fact, repeating what was in our Criminal Code, but now, as I said, Mr Speaker, Sir, the amendments before the House today have clarified the situation with regard to the age of consent concerning all sexual offences against the child, be it *attentat à la pudeur*, be it having sexual intercourse with a minor or causing a child to be sexually abused. According to

our current Child Protection Act, now, the age limit is 16 and we thank the hon. Minister for, once for all, harmonizing our different pieces of legislation in terms of age of consent because there was a lot of confusion since there were in fact, three different age limits, 12 for *attentat à la pudeur*, 16 for having sexual intercourse with a minor and 18, causing a child to be abused under the Child Protection Act. Now, this present Bill has come to harmonize the situation and the age of consent, Mr Speaker, Sir, is now 16 years for all these offences.

Mr Speaker, Sir, to my mind, when we are debating such Bills today, we have to keep in mind that sexual abuse and exploitation of children is central to the issue of child protection. Accordingly, the judicial protection of children victims of sexual abuse should rank high on our agenda and in this context, Mr Speaker, Sir, allow me briefly to recall the evolution of our laws in relation to the issue of sexual offences perpetrated on children and the legal protection offered in different periods of our history.

M. le président, il nous faut rappeler que de par le monde l'intérêt accordé à l'exploitation sexuelle des enfants a mis des siècles à se manifester. En Angleterre, le viol de l'enfant ne fut dissocié du Droit Canon qu'au XIII<sup>e</sup> siècle et la séduction d'une fille âgée de moins de 16 ans, même si elle ne ferait aucune résistance, devint un délit et non un crime. Un jugement rendu dans les années 1600 illustre la confusion qui régnait dans les esprits à ce sujet. Malgré les dépositions des témoins oculaires, un prévenu fut acquitté d'un viol d'une fillette de neuf ans parce que les juristes d'alors doutaient du fait qu'on pouvait violer un enfant d'un âge aussi tendre. La chose leur paraissait tout simplement impossible. Même au XIX<sup>e</sup> siècle, l'exploitation sexuelle des enfants ne paraît pas avoir suscité des graves inquiétudes. À l'époque, ce n'était pas tant la détresse des enfants victimes d'exploitation sexuelle qui retenait l'attention que les vives inquiétudes suscitées par une épidémie de maladie vénérienne liée au commerce florissant de la prostitution enfantine, M. le président. Jusqu'au milieu du XX<sup>e</sup> siècle, le public se refusa à l'idée qu'on puisse exploiter sexuellement des enfants. Heureusement, le droit évolua, progressa pour définir des nouvelles infractions liées à l'exploitation sexuelle des enfants afin de leur offrir une meilleure protection contre leurs agresseurs.

M. le président, il est un fait que malgré l'évolution et l'introduction de nouvelles législations, nous comptons toujours à travers le monde et à Maurice trop d'enfants victimes de cruauté sexuelle et psychologique, de négligence, d'abus physique, sexuel ou émotionnel, et nous continuons à déplorer un nombre grandissant d'histoire familiale lourde, d'abandon et de rejet successif d'histoire d'enfants humiliés et mal-aimés. Et dans ce contexte, nous

devons saluer les multiples nouvelles propositions introduites dans le *Children's Bill*. M. le président, je prends par exemple, la section 29 (c) du *Children's Bill* qui prévoit des '*aggravating circumstances*' dans certaines circonstances, par exemple, quand l'agresseur a abusé de sa position de responsabilité, de confiance ou d'autorité envers l'enfant. En effet, M. le président, les abuseurs d'enfants sont dans la majorité des cas des proches qui sont dans une position d'autorité ou de confiance certaine vis-à-vis de leurs victimes, par exemple les beaux-pères, les concubins, les oncles, les enseignants, les moniteurs sportifs, les médecins, les voisins et hommes religieux. Il en va des abuseurs d'enfants comme des violeurs de femmes, impossible d'en tracer un profil des types psychologiques. Ils peuvent appartenir à toutes les couches de la société et bon nombre d'entre eux sont des citoyens au-dessus de tout soupçon jusqu'à ce que la vérité éclate. Pour compliquer ce tableau, M. le président, plusieurs ne sont pas des pédophiles de carrière, il découvre sur le tard leur tendance sexuelle déviante après avoir mené pendant des années, une vie sexuelle normale. Les experts nous disent qu'une trop grande promiscuité avec des enfants et surtout en pouvoir trop étendu suffise parfois à éveiller cette sexualité réprimée. C'est donc un juste titre, M. le président, que la sanction imposée à ceux qui profitent de leur position d'autorité était un terme de servitude pénale de 30 ans. Permettez-moi aussi, M. le président, de saluer la décision de Madame la ministre, d'introduire la section 13 dans le *Children's Court Bill*, la mise en place d'un système de *live video and television link* en cours pour s'assurer qu'un enfant victime ou témoin dans certains cas puisse témoigner à travers un écran. La raison de cette nouvelle disposition est évidente. Elle a pour objectif de permettre à l'enfant victime d'un délit à caractère sexuel ou autre de témoigner sans faire face à son agresseur.

M. le président, lors de la présentation de la *Protection of Child (Miscellaneous Provisions) Act 1998*, j'avais émis cette proposition qui se trouve maintenant dans le projet de loi devant nous. Permettez-moi, en toute humilité de reprendre ma proposition d'alors, et je cite, voilà pourquoi de nos jours, beaucoup de juridictions dans beaucoup de pays, les enfants victimes d'une infraction sexuelle peuvent témoigner derrière un écran ou un autre dispositif ou à l'extérieur de la salle d'audience au moyen de la télévision en circuit fermé. Au Canada, par exemple, le juge peut autoriser ces mesures lorsqu'il est d'avis que le fait de voir l'accusé pourrait empêcher l'enfant de donner un récit complet et sincère.

M. le président, je dois rappeler à la Chambre aussi qu'en 2003, alors que le gouvernement MMM-MSM était au pouvoir, l'*Attorney General* d'alors avait amendé le *Courts Act* pour introduire dans nos *Statute Books* pour la première fois, la possibilité pour

une victime d'un délit à caractère sexuel de témoigner derrière un écran. Cette provision se trouve dans la section 161(b) du *Courts Act*.

M. le président, la protection de l'enfant victime d'abus sexuels dans le cas d'une protection juridique ne se limite pas à créer de nouveaux délits ou à imposer des sanctions plus sévères. Il s'agit d'être conscient de la succession d'étapes après la plainte de l'enfant jusqu'au jugement. La section 12 du *Children's Court Bill* et les sections 65 et 66 du *Children's Bill* assurent le bon déroulement du procès dès l'ouverture de l'enquête jusqu'au procès, et ce dans l'intérêt de l'enfant. La section 65, M. le président, prévoit le *recording of statements of child witness or child victim*; la section 66 traite de la nomination du *Guardian Ad Litem*. Il est d'importance capital que ce *Guardian Ad Litem* réponde aux exigences de sa fonction car selon la section 66, ce dernier aura pour tâche et mission d'*advocate for the best interest of the child before a Court*.

Ces nouvelles propositions que je viens d'évoquer, M. le président, vont certainement dans la bonne direction parce que la préparation du procès exige une manifestation sans équivoque d'appui à l'enfant, afin de réduire l'anxiété que ce dernier éprouve à l'idée de comparaître devant un tribunal ou de faire face à l'accusé. Ainsi, la raison d'être et le rôle du *Guardian Ad Litem* sont vitaux, et d'après les nouvelles dispositions du projet de loi, il incombe à ce *Guardian Ad Litem* de *monitor the child best interest, including any impact caused by the involvement in the justice process throughout the investigation and the judicial proceedings of the child*.

M. le président, nous savons tous ce qui se passe aujourd'hui dans le cas d'un enfant victime d'agression sexuelle. Invariablement, cet enfant viendra avec ses parents, eux-mêmes bouleversés ou stressés. Il fera son entrée dans une cour de justice pour la première fois ; il rencontrera probablement son agresseur dans les couloirs ou les escaliers du bâtiment arbitrant la cour. Nous savons pertinemment bien, M. le président, que tout ceci influera sur l'enfant directement lors de sa comparution en cour et, éventuellement, son témoignage en cour en souffrira. Nous pouvons imaginer le traumatisme que vivra cet enfant.

Lors de mon intervention, en 1990, sur le *Child Protection Act*, j'avais alors proposé la création – je l'appelais à cette époque, la création d'un *Family Court* - j'avais dit ceci –

« (...) au cours de ces journées d'audience, le travailleur social - maintenant le *Guardian Ad Litem*, je suppose - doit aider l'enfant en lui tenant compagnie, en

faisant de sorte qu'il ne rencontre ni l'accusé, ni les personnes qui témoignent en faveur de ce dernier. »

Ce qui me ramène finalement à la question de *Family Court*. J'avais aussi dit à l'époque, M. le président -

« Pourquoi un *Family Court* ou un *Children's Court* ? (...) Un *Family Court* aurait été un soutien indéniable dans la protection des enfants dans la limite qu'elle s'occuperait exclusivement de toutes les affaires de divorce, de garde de l'enfant, de pension alimentaire, mais aussi des cas des enfants victimes d'abus sexuel.

M. le président, le *Family Court* doit être une cour de justice sans l'être. Sa disposition, son *look* ressemblerait moins à une cour austère et pourquoi ne pas décider que même les juges ou les avocats ne soient pas vêtus de leurs toges sombres, un *child-friendly atmosphere* pour que les gosses victimes des adultes débiles, se sentent plus à l'aise dans une atmosphère moins lourde et lugubre pour faire le récit de leurs calvaires. »

M. le président, j'avais fait cette proposition le 31 juillet 1998, c'est pourquoi, je suis personnellement réconforté, heureux et je félicite la ministre responsable pour le *child welfare*, heureux par ces dispositions audacieuses de ce nouveau projet de loi et pour la mise sur pied de *child-friendly environment Court*, comme est intitulé la clause 12 du *Children's Court Bill*.

M. le président, je présume que nous sommes tous d'accord dans cette Chambre que dans l'intérêt de l'enfant, le port de toge pour l'avocat et les magistrats doit être revu. J'irai plus loin et je demanderai à mes amis, la ministre et l'Attorney General, et aussi le Premier ministre de demander à la Force Policière de prendre des dispositions nécessaires de façon à ce que les *Police Prosecutors* et les *Police orderly* ne portent plus leurs uniformes de policier au *Children's Court*, comme c'est le cas dans plusieurs juridictions.

M. le président, je fais mention de l'impérieuse nécessité de la protection juridique de l'enfant. Tous ces changements proposés sont d'ordre procédural. Mais, savez-vous que dans les autres juridictions, M. le président, certains pays sont allés plus loin, ont franchi un pas encore en avant, ils ont même changé la loi, le *substantive law*. Par exemple, le droit pour protéger les enfants. Au Canada, par exemple, on n'exige plus que le témoignage d'un enfant victime d'abus sexuel soit corroborer par une autre personne, et ceci, M. le président, dans le but de protéger l'enfant devant une Cour de justice.

M. le président, je voudrais maintenant faire quelques commentaires brefs sur les *child offenders* et le *criminal responsibility of children*.

*Sans aucun doute, la clause 49 de ce Bill*, without any ambiguity renders it impossible for a child under the age of 14 to be prosecuted for any criminal offence. It is a good step in the right direction. The criminal liabilities of children, including the theory of *doli incapax*, have provoked a lot of controversy during several decades at international level.

Mr Speaker, Sir, in Mauritius, no Minimum Age of Criminal Responsibility or the MACR as we call it, is provided in our law. Theoretically, a child of any age in breach of the law can be prosecuted.

Section 44 and Section 45 of our Criminal Code govern the prosecution of our children and these two provisions of our Criminal Code distinguish between children with discernment and children without discernment. According to these sections, if a child offender is 14 or above, discernment is not an issue and the child can be prosecuted. But a child under 14 can only be prosecuted where he is found to have discernment, however, the difficulty in our law is that the Criminal Code does not prescribe any mechanism or process for determining whether this child under 14 has discernment or not; it rests upon the Trial Court to decide whether this child fulfils the discernment test or not. And it is evident, therefore, Mr Speaker, Sir, with the passage of time, with the evolution of the situation at international level, our country had the duty to review this state of affair. In fact, we have inspired ourselves heavily from the Committee which has requested State parties to promote systems of juvenile justice which are less retributive and more rehabilitative.

Mr Speaker, Sir, I believe that our law struck the right balance by prescribing the age of criminal responsibility to 14 years because in General Comment No. 14 on Children's Rights in Criminal Justice, the CRC Committee criticised the juvenile justice system, where the criminal responsibility of the child is dependent on an assessment of his maturity as being confusing and leaving too much discretion to the courts and judges and resulting possibly in discretionary practices. In addition, the Committee also remarked, Mr Speaker, Sir, that the assessment of the child's maturity often takes place without the involvement of a psychological expert and the court's stand in practice to use the lower minimum age in cases of serious crime.

Mr Speaker, Sir, we should note that in our country the weakness of our law has rested on the fact that our discernment test is not coupled with any MACR; this is why our

law has rightly been amended to provide for an adequate MACR age of criminal responsibility which I consider personally to be sufficiently high to take into consideration the advantages of the discernment test.

Mr Speaker, Sir, more than twelve years have lapsed - *douze années* - since the Committee recommended that our country should implement MACR of international standard. We have stood up to what was expected from us by the Committee and besides the provisions rescinding the MACR, the Bill has abundantly provided for a lot of relief and alternatives to criminal prosecution of children and juvenile.

Par exemple, M. le président, la loi a proposé la mise sur pied de nouveaux mécanismes et de nouvelles structures, tel que *the diversion programme* à la section 56 du *Children's Bill* qui a pour but d'assurer la réhabilitation of the *juvenile without resorting to formal criminal proceedings*. Mr Speaker, Sir, I will now turn to a question which has caused much debate over the years, the competence of children testifying in court. Here again, Mr Speaker, Sir, clarity has been brought to our law. Mr Speaker, Sir, witnesses are presumed to be competent to depone in any matter in a court; however, exceptions were made for children. The current provisions have been the source of major confusion in our law, in our jurisprudence.

My friends of the Bar will recall the long line of cases and pronouncement on the cases of Baseno, Ruttun, Mosai; and finally, Mr Speaker, Sir, *Jeetah v the State*, a case decided by the full bench came and set order in the House. And this case, Mr Speaker, Sir, decided, and I will just quote one line –

“From our collective experience, the age of 14 adopted in *R v Khan*, - which is a UK case - as the cut off age would also be appropriate in the Mauritian context.”

With the new provisions in our Criminal Procedure Act, as amended today, it is now clear that a child under the age of 14 will not be deponing under oath or solemn affirmation and will be admitted as a witness when the court is satisfied that the child understands questions put to him and can provide answers which can be understood.

Mr Speaker, Sir, time, unfortunately, is running for me. I will just also thank the Minister for the Child Sex Offender Register Bill because this Bill also will undeniably enable the keeping of records of convicted and sexual offenders and will strengthen the monitoring of sexual predators and other offenders.

M. le président, j'avais dit au début de mon discours qu'il est un fait, malgré l'évolution et l'introduction de nouvelles législations, que ce soit à Maurice ou dans le monde, nous constatons toujours trop d'enfants victimes et le nombre grandissant de victimes de négligence, d'abus physique et d'abus sexuel. En vérité, nous savons tous la complexité de la question. Nous vivons dans une société complexe à un rythme effréné. Aujourd'hui, nous savons tous que le nombre de divorces prend l'ascenseur. Les familles se disloquent. Les enfants sont laissés à eux-mêmes. Les parents, eux-mêmes, en manque d'encadrement, s'entredéchirent pour la garde de leur progéniture.

La pornographie, de son côté, insidieusement, fait de nombreuses victimes parmi nos jeunes et engendre un déraillement psychologique. Les rapports, les données sont accablants, M. le président, n'en parlons pas des autres fléaux. Le combat pour la protection de nos enfants ne peut être résolu que par l'État, lui seul, malgré toute la bonne volonté et toute la panoplie de nouvelles législations, M. le président.

Et dans ce contexte, je voudrais aujourd'hui saluer et remercier toutes les ONG et autres associations qui soutiennent l'État d'une façon constante dans cette tâche si difficile. Nous appelons de tous nos vœux, M. le président, un renforcement plus poussé à une consolidation des liens entre l'État et ces ONG. Nous souhaitons un système d'accréditation efficace, une valorisation de leur travail et de leurs contributions. Leurs interventions sont indispensables parce que, comme nous le savons tous, M. le président, les cas de cruauté physique/sexuelle ou d'abandon ou autres ont lieu à toute heure et même pendant la nuit. Ces ONG constituent un maillon robuste dans la chaîne de la protection que nos enfants ont besoin.

Mr Speaker, Pope Francis, on 18 March 2015, said at the Vatican that a society can be judged the way it creates its children. Indeed, Mr Speaker, Sir, this Government, under the leadership of our Prime Minister, has, today proudly, honoured another of its pledge to the nation and to the children of this country. Our hearts throb at the sort of the relief and solace to be provided to all these innocent victims of abuse by the adoption by the three pieces of legislation.

Au final, ces trois projets de loi, M. le président, qui débordent de tant d'humanisme, mettent à la disposition de la ministre, ses officiers, les travailleurs sociaux une boîte à outils efficaces de dernier cri pour poursuivre leur combat quotidien. De plus, il assume une portée



historique en s'inscrivant dans le droit fil de la philosophie de ce gouvernement de protéger le plus faible.

Permettez-moi, M. le président, pour conclure de citer monsieur Jacques Attali, conseiller d'un ancien président de la République de France, qui avait dit ceci : tant qu'un enfant aura faim, aura froid, aura peur, on souffrira d'une injustice. Tout œuvre d'art ne sera que blasphème et l'éternité une illusion.

*I have done, Mr Speaker, Sir.*

**Mr Speaker:** Leader of the Opposition!

(12.20 p.m.)

**The Leader of the Opposition (Dr. A. Boolell):** Mr Speaker, Sir, the three Bills transcend political barriers and they are being introduced against a backdrop of nuclear rather than extended family.

The Opposition has not cracked its whip and all our MPs have been given the freedom to express their minds on sensitive clauses of the Bill. There have been passionate debates to justify why marriage below the age of 18 should be prohibited. Over and above heated and passionate debates, the implementation of the provisions of the Bills remains the corner stone. In an interview given in a daily as far back as 15 November 2005, the then Ombudsperson made a plea for social audit which, as of now, has not been conducted. It rationalises existing resources and calls for effectiveness. Support services like the *Brigade des Mineurs* and CDU are not proactive because financial resources are not fully utilised.

Hon. Xavier Luc Duval, Leader of the PMSD and Chairman of the Public Accounts Committee, put across the shortcomings that have to be addressed. The staff is inadequate and skills need to be updated. Our children are fragile and vulnerable, and the State has a responsibility to protect them from any scourge, for example, radical movements. We don't want our children to have a threshold of intolerance. If it happens, it is the fabric of our society which will be disrupted. Beware of indoctrination - *Nation arc-en-ciel* here today and is here to stay, or is it? What are the physical, the human resources available? Money, as I have stated earlier, is not being spent upfront and those in the services are poorly paid notwithstanding vacancies which are yet to be filled.

Let me, Mr Speaker, come to the *plat de résistance* of this Bill - prohibition of marriage under the age of 18. I agree with the Minister. There should be no retreat, no surrender on the age of marriage before 18. I am not saying that we should rush in like fools where angels fear to tread. Prohibition of marriage without any derogation under the age of 18 in any circumstance is now the backbone of the Bill. It is indeed a leap forward. Therefore, a vast sensitive campaign has to be waged and the best interest of our children has to be high on the agenda. But what happens when a 16-year old tells her parents she is pregnant? Throw the tub and the baby away? Of course, not! But how effective are the support and accompanying measures? We are yet to be told. Nothing is said on adoption or helping the family to cope, to bring up a vulnerable child born in or out of wedlock. Do we have a matching data for adoption? Are the shelters or foster homes accommodating? Is surrogacy a cause for adoption? Has a survey been conducted to assess the suitability of foster parents? The Minister will have to inform the House when the new Bill on adoption will be introduced.

Let me come to the crux of the Bill; the prohibition of marriage under the age of 18. I am not saying the alternative to prohibit marriage below the age of 18 should be *concubinage* or living-in companion. The amendments to section 12, subsection 3, make provision for a hefty fine and term of prison not exceeding five years because it is an offence to marry a child civilly or religiously. But where is the deterrence to *concubinage* in respect of those below the age of 18? In the proposed subclause 12, subsection (2) (b), unfortunately, the Bill is silent. Why? Is it so difficult to find out if proper enquiry is conducted when a living-in companion is of child age?

Mr Speaker, Sir, it means that the service providers of the Ministry are weak. The sensitive issue of child marriage, I believe, has been treated callously by the hon. Minister and this Government by way of consequential provisions to be found at clause 73(1) of the Children's Bill. It is now proposed that the age of marriage should be brought to 18. I am not saying that the age of marriage should be or should not be fixed at the age of 18. I am just stating that prior to cancelling more than 200 years of accepted norms, the hon. Minister and this Government ought to have come up with consultation process in the manner advocated in both clauses 4 and 5 of the Children's Bill. In other words, the hon. Minister cannot just come with a proposed amendment to the Civil Status Act and simply state that henceforth, and I quote –

“No religious marriage shall be celebrated unless the parties to the religious marriage are aged 18 or above.”

I am not challenging the introduction of a new subsection 2 to section 33 of the Civil Status Act nor am I contesting the abolition of marriage before the age of 18. What I am objecting to is the non-abidance of the Government and of the hon. Minister to well-accepted norms of governance regarding consultation and participative democracy. Has the legal profession been consulted at large so as to express its views regarding the blunt cancellation of the concept of *émancipation par le mariage*? Should the parents of this country not have a right to be consulted as to whether they agree that the age of marriage should henceforth be at the age of 18 or above? Should the population not have the right to be consulted to express their views whether there should be exception to the rules that marriage can henceforth only occur at 18 above or below? The pleas made by many likeminded MPs to refer to specific cases to a Judge to take a measured decision are not only emotional but rational. However, the demerits of shotgun wedding or living in companion at 16 far outweigh any merit from psychological, physical and emotional development. Therefore, the Minister will have to inform the House of her reach out for a better outreach.

Mr Speaker, Sir, a child is born. But where does life begin? The child deserves protection from the womb to the tomb. *Malheur à celui qui frappe un ou une enfant*. We want the best for our children; to save them from the street. We don't want them to be child soldiers or to be used as human shields in conflict or be the mules in drug trafficking. They are vulnerable to sex predators. A conducted survey makes it clear that many sex predators had childhood problems. They can be rehabilitated and reinserted in society.

I am not going to mention the legitimate arguments of chemical castration of sexual predators due to repeated acts. In itself, it is a debate that can be endless. But please remember that paedophiles and sexual abuse are two different things. Paedophilia is a psychiatric disorder. Predatory sex offenders who lure vulnerable teenagers have to be punished. The Court so decides and section 19(3) (a) and (b) provides penal servitude. I was glad to read the Newsletter circulated by the Office of the DPP on interactive session between legal minds and those specialised in psychosocial disorders. Section 19 of the Children's Bill makes provision for protection of children from sexual offenders. Allowing a child to be sexually abused is a grave offence under section 249 of the Criminal Code.

Let me look at practical issues rather than make any comments on the intricacies of the provisions of those specific sections. Very often, potential offenders advertise their services as handymen, personal tutors, coaches, hell minders on social media. They may forge good character references to get the jobs. There should be provision for a register of sexual offenders, but when convicted of an offence and released after serving a jail term, the person should be placed on a Sexual Harm Order, banning him from unsupervised contact with children under the age of 18. Classified agents should give safety protection tips and be responsible for any checks and vetting. The three Bills brought before this House by the hon. Minister of Gender Equality and Family Welfare have indeed a lot of substance. But every right thinking person will insist that there is room for improvement.

Mr Speaker, Sir, you may introduce the best legislation, you may have the best endeavour, but legislation does not move and the provisions cannot be properly implemented unless there is participative democracy. After six years of undue delay, during which this Government has been paying lip service to the rights, welfare and best interest of our children, one must now wonder why there has been no prior circulation of the three Bills; why there has been no effective process involving structured discussion with NGOs concerned with children's rights and welfare; why have there been no effective stakeholders' workshop to ventilate the three Bills and give an opportunity to parents' associations also to give in their views and emit their reservation, if any. Why has there been no expert seminar? The odd one does not help us to achieve any of the set objectives of the Bill. We need to have an increased number of expert seminars with open participation. In other words, why has there been no participative democracy after the elaboration of the Bill? After six years of delay, surely there could have been six weeks' attention given to the stakeholders of the country and to parents alike. I hope lost ground will be recovered.

Apart from the culpable delay of six years in coming up with those three Bills, one of the immediate question which bothers me is whether the hon. Minister and this Government altogether are not, by virtue of the undue delay in bringing these Bills, guilty of culpable omission, in particular when one refers to Part II of the Children's Bill relating to the implementation of the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

Indeed, clause 4(1) of the Bill prescribes the best interest principle in respect of children and State that -

“(1) The best interests of a child shall, in respect of any matter concerning the child, be paramount and be the primary consideration by any person, Court, institution or other body.”

I read clause 4(1) of the Children’s Bill to mean that the best interest of children should have been paramount and be in the primary consideration of the hon. Minister and the Prime Minister and his Government in preparing and enacting the Children’s Bill. Yet, what did the Prime Minister do? It took him six very long years to bring this Children’s Bill before the House. I believe that the best interests of children cannot have been paramount nor be the primary consideration of the hon. Prime Minister and of his Government if it took six long years and four Ministers to bring three Bills before the House. I make an exception for Mrs Perraud who, together with the Leader of the PMSD and his loyal MPs, resigned from Government in 2016 in the best interest of the country.

Mr Speaker, Sir, is this Government acting in the interest of children when more than 30% of our children fail PSAC, that is, unable to write, to read and count? We need to set up an inspiration trust to be at the forefront of raising education standards in areas which have been lagging behind. The case of East Anglia in UK is a showcase, amongst others, to spearhead a parents and teachers’ campaign for excellence group. As for the sizable number of parents and children who are sleeping rough and tough in the open air, it is indeed heart-breaking. Is this the best endeavour of this Government to protect our children?

Mr Speaker, Sir, there is a cause and there is a call to beware of killer synthetic drugs. Does the regime has the political will to protect our children from a country which, over the last five years, has turned into a killing field. God spare our kids from the drug Fentanyl which is no bigger than the size of a pinhead, but with the potency to kill. Where is the amendment to the Dangerous Drugs Act to revisit the Schedule list of dangerous drugs?

Mr Speaker, Sir, let me now come to clauses 4(2)(a), 4(2)(c), 4(2)(f) and (g) of the Children’s Bill, which implement the best interests principles as regards children in our legislation. The gist of these clauses and sub-clauses of the Children’s Bill are to prescribe that in relation to any matter concerning a child -

#### **“4. Best interests principles**

(2) (...) every person, every Court, every institution or any other body shall, in relation to any matter concerning a child –

(a) respect, protect, promote and fulfil the rights and the best interests of the child;

- (c) treat the child fairly and equitably and give the child an opportunity to be heard;
- (f) give, where appropriate, the child and the child's family member an opportunity to express their views;
- (g) take the views of the child into account;"

Have these views been taken onboard?

Let me refer to a fine judgment on verdict by the UK High Court that children aged 13 or under are not competent to consent to being treated with puberty blockers. Is it a victory? It is indeed a victory for common sense; a victory for sanity. Studies have shown that the age of competency to consent is 18. An informed consent is relatively justifiable at the age of 18. The long-term physical and psychological consequences of treatment with drugs can cause long-term harm. I am talking of treatment of gender dysphoria in children. When in doubt, as we say, leave it to the Court to settle the matter. For those who are below 18 years and 16, leave it to the Judge to raise the high bar. That's why parental consent is sought from those who are below 18 and a plea was made for referral of specific case to a Judge by many MPs. But I stated earlier, there is a call for wide discussion at the bar of public opinion to highlight the merits of prohibition of marriage before the age of 18 and of the relevance and importance of consent implied or not. Why have we legislated to prevent children to walk into a casino, let alone a place of betting or purchase alcohol for their parents? There are instances where the law is silent. That's why I mentioned the case brought against the Gender Identity Development Service Clinic of Tavistock Hospital in London which is, indeed, a showcase. I will insist, Mr Speaker, Sir, with Government that those three Bills are matters concerning our children, and if they really wanted to respect, promote and fulfil the rights and best interests of our children, as prescribed in clause 4(2)(a) of the Children's Bill, Government should have given our children an opportunity to be heard, as prescribed by clause 4(2)(c) of the Children's Bill. Has the Minister devised any process to allow our children to be given an opportunity to be heard regarding the three Bills, bearing in mind that a "child" is defined in clause 2 of the Bill as a person under the age of 18? Should the Ministry of Gender Equality and Family Welfare not devise a process whereby the children of this country, especially those aged 16 to 18, are given an opportunity to be heard on the Bills before the House?

Mr Speaker, Sir, let me now come to the legal and moral obligation to consider views. Mr Speaker, Sir, no consideration, as should have been given, has been taken onboard. The hon. Prime Minister and his Government have all decided to only pay lip service to the notion of giving our children an opportunity to be heard, as prescribed in clause 4(2)(i) of the Children's Bill. They have done nothing about it insofar as the three Bills before this House are concerned. In fact, the Children's Bill goes further than this and prescribes in clause 4(2)(g) of the Bill that in relation to any matter concerning a child -

**“4. Best interests principles**

(2) (...) every person, every Court, every institution or any other body shall, in relation to any matter concerning a child –

(g) take the views of the child into account;”

What views are there to take into account when the hon. Minister and the Government as a whole have devised no process whatsoever to seek the views of the children of this country? I am of the view that this approach by the hon. Minister and Government is simply shameful and disrespectful towards our children.

Clause 5 of the Children's Bill is just another nail in this Government's coffin when it comes to the arrogant disrespect for the rights of our citizens. This is about arrogance and disrespect for the people of this country and a close look at clause 5 of the Children's Bill will show this. Clause 5 states -

**“5. Child participation**

Every child who is of such age, maturity and stage of development as to be able to participate in any matter concerning the child shall, so far as is practicable, have the right to participate in the matter and any views expressed by the child shall be given due consideration.”

Should the hon. Minister, therefore, not have devised a process to allow our children to participate in a process of consultation regarding these three Bills? This would apply especially to those aged 16 to 18, if not all our teenagers. Yet, this has not been the case. They did not care for the views of our children. It reminds me, Mr Speaker, Sir, of the High-Powered Ministerial Committee on Drugs which hardly met. To add insult to injury, a look at clause 4(2) (f) and (g) of the Children's Bill will show the callous disregard of this Government which is being extended to the parents of this country. Clause 4(2) (f) of the Bill

prescribes that the child and the child family member must, where appropriate, be given an opportunity to express their views and clause 4(2) (g) of the Children's Bill states that the views of the child shall be taken into account. I have shown, firstly, that in keeping with the substance of the legislation before this House, there should have been proper consultation process with the children of this country, that is, if the Government is honest and sincere about the best interests principles propounded in the Children's Bill. However, in addition to the lack of consultation, I have mentioned the combined effect of clauses 4(2) (f), 4(2) (g), is that there is no duty of the authorities to take into account the views of parents. I cannot for one second believe that the parents of this country would have accepted this had there been proper consultation. I am of the view that however welcome those three Bills are, the absence of proper and well-structured consultation process is an irreparable flaw. The Minister has to make amends and she has to repair and go on a vast campaign to widen the circle of opportunities to bring everybody onboard. If one looks at the international context, one cannot miss Article 12(1) of the United Nations Convention on the Rights of the Child, which states, and I quote –

**“Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, that the views of the child being given due weight in accordance with the age and maturity of the child.”

Clearly, the child who is capable of forming his or her views must be given the right to express those views freely in all matters affecting him or her. Let alone regarding the age of marriage, the hon. Minister, again, and the Government have failed lamentably to allow those whose rights they have been tasked to preserve to exercise those rights and express their views on a serious matter affecting them, that is, the age of marriage, but, above all, on all the three Bills.

Mr Speaker, Sir, same is being reinforced in Article 13 of the United Nations Convention on the Rights of the Child and, again, it's damning against the hon. Minister and Government as a whole. When one couples Article 13 with Article 14, guaranteeing respect by States for the rights of the children to freedom of thought, it is clear that this Government has shown callous disregard to the children of this country, but also to the parents and to the



adults of this country by failing to initiate to promote and implement proper and dissent consultation.

Mr Speaker, let me, before I conclude, remind ourselves what is on the UN webpage, and one will see that the World Children's Day which was established in 1954 as the Universal Children's Day and is celebrated on 20 November, every year, I quote –

“(...) promote international togetherness, awareness among children worldwide, and improving children's welfare.”

According to the UN website, 20 November –

“is an important date in 1959 when the UN General Assembly adopted the Declaration of the Rights of the Child.”

And the date in 1989 when the UN General Assembly adopted the Convention on the Rights of the Child. The website goes on to add that –

“World Children's Day offers each of us an inspirational entry-point to advocate, promote and celebrate children's rights, translating into dialogues and actions that will build a better world for children.”

Mr Speaker, Sir, I don't want the hon. Lady to make a fall start and I will advise her to mend her differences with the Ombudsperson over the setting up of a Child Services Coordinating Panel which whittled down the powers of the office of the Ombudsperson for Children and, indeed, it should not be so. Duplication is unnecessary; complementarity is the way forward. The Office of Ombudsperson for Children acts as check and balance and should not be overshadowed. It provides the monitoring and good oversight if anything it has to be reinforced. The Office is a public body that promotes the rights, views and interests of children in policies and decisions affecting their lives. It is particularly concerned with children who are vulnerable and find it hard to make their views known. Notwithstanding section 8(3), a similar amendment has to be brought to the Ombudsperson for Children Act to report to the Panel any action taken on the recommendation; the reason for which partial or no action was taken.

Mr Speaker, Sir, it has taken this Government six years and four Ministers to come up with the Bill. What we are saying, we are appealing to be humble enough to realise that the country, the nation, our children deserve to be heard. The Bill sets the tone and the pace but as our good Irish friends would say, it's indeed a long, long way to Tipperary.

I wish the Minister well and ask her to put her best endeavours to see to it that, for every input, there is an output and there is an outcome.

Thank you very much.

(12.49 p.m.)

**The Minister of Social Integration, Social Security and National Solidarity (Mrs F. Jeewa-Daureeawoo):** Mr Speaker, I must say I am astonished to hear the Leader of the Opposition criticising the Children's Bill.

In my humble opinion, the previous Government has had nine years to bring the Children's Bill to Parliament. I am talking of 2006 to 2014. If I am not mistaken, the Leader of the Opposition was in Government at that particular time. No Bill was presented. We have not even seen a draft Bill.

On this side of the House, Mr Speaker, our commitment and hard work have paid off. I think what was required was a genuine willingness to come up with the Children's Bill.

Hon. Leader of the Opposition mentioned the Audit Report. I can't understand what an Audit Report has to do with the Children's Bill. We are here debating the Children's Bill and the Leader of the Opposition is talking about the Audit Report.

Hon. Leader of the Opposition has laid a lot of emphasis on six years of supposedly undue delay by our Government to bring the Bill. I would, however, wish to refresh his memory that he has been part of the previous Government for nine years, what was done back then? Not a single time was a draft Bill circulated, Mr Speaker.

Hon. Leader of the Opposition spoke of, you know, that children were not heard. Let me reply to the hon. Leader of the Opposition to mention that children have been heard, Mr Speaker. A workshop was held, in 2018, involving 102 children between 12 to 17 years from all walks of life to listen to their views. We have considered the views of children. I have personally listened to the views of children in shelters and the Rehabilitation Youth Centre.

Coming to Parliament this morning, saying that, you know, this Bill should have been brought six years back, this Bill has taken six years, *mais, M. le président, ce projet de loi a pris quatre ans parce que c'est un projet de loi qui a été travaillé et présenté d'une très bonne manière.* This Bill has been worked out thoroughly. It is a comprehensive and key piece of legislation.

Mr Speaker, Sir...

**An hon. Member:** *Limem komier temps lin pran pu marier!*

**Mrs Jeewa-Daureeawoo:** Mr Speaker, Sir, on Wednesday 20 November 2020, we marked the World Children's Day, an important day, indeed, where we are called upon to promote the welfare of children. I must say the Children's Bill is being introduced at an opportune time. We have nearly reached the end of the debate. I must say I have followed the debate with much attention. Much has already been said. The end of the debate is happening at the end of 2020. What is interesting to note is that the Children's Bill will be voted.

The introduction of these three Bills, which are before the House today, is a testimony of our Government's commitment to a betterment of the protection of our children. The Children's Bill, which focuses on the wellbeing, care, attention of our children and young persons is a comprehensive and key legislation that is absolutely vital. On this side of the House, we greatly believe that those who are vulnerable, such as children, disabled and elders should be protected.

Both sides of the House agree that the Children's Bill was long awaited as the Bill is incredibly important. This House bares testimony as has been mentioned by hon. Ganoo to the number of questions put over the years concerning the introduction of a Children's Bill. I am sure the whole House agrees that today, the 15 of December 2020, will remain a historic date for the Republic of Mauritius, as the Children's Bill will be voted.

Mr Speaker, Sir, our Government took the commitment to come forward with a Children's Bill in our Government Programme 2015-2020. Let me refer you to paragraph 49 of the said Programme which stated, I quote –

“A new Children's Bill will be introduced to bring together the different pieces of legislation dealing with children under one single legislative umbrella.”

This is what we said in our Government Programme 2015-2020.

As you can see the priority of our Government to introduce the Children's Bill in Parliament dated as far back as 2015. This Government has therefore, in its earlier mandate, taken at heart our children's welfare. It had set as a priority the introduction of a Children's Bill to safeguard children and young people who are incredibly vulnerable. Since 2015, Mr Speaker, Sir, great importance has always been placed on the wellbeing, health and education of our children. One must recognise that many measures have been taken by our Government since 2015 for the welfare of our children. An example, we corrected a serious injustice where children with disabilities under the age of 15 suffering from an incapacity of 60% were

not eligible to a basic invalidity pension; an injustice of over 40 years. Our Prime Minister has removed the age criteria and thanks to our Prime Minister, all children are treated equally.

You will recall, Mr Speaker, Sir, that the Republic of Mauritius ratified the UN Convention on the Rights of the Child in July 1990 to solidify its effort to protect our children. It is a very good thing. On 19 January 2006, the then Minister for Child Matters, Mrs Seebun, in her opening statement at the 41<sup>st</sup> Session of the Committee on the Rights of the Child in Geneva stated, I quote –

“With a view to adopting a holistic and inter-sectorial approach in dealing with children, Government will introduce a Children’s Act.”

I don’t know if hon. Dr. Boolell is aware of this statement. Coming to this House this morning, saying that this Bill should have been presented some five years back, we have taken so much time, is he serious, I am just asking myself? Now, following the said statement...

*(Interruptions)*

**Mr Speaker:** Don’t interrupt the hon. Minister!

**Mrs Jeewa-Daureeawoo:** Following the said statement, the UN Committee on the Rights of the Child, in its concluding Observations and Recommendations on 17 March 2006, recommended the Republic of Mauritius to introduce a Children’s Bill. I am talking, Mr Speaker, of a recommendation that has been made in 2006. Some may argue that there were discussions between 2006 and 2014, but the fact remains that nothing came out of the discussions. There was a mismatch between words and actions from 2006 to 2014. It is only in this Government’s earlier mandate that serious consideration was given to the drafting of a comprehensive piece of legislation.

Mr Speaker, Sir, I had the honour of being very much involved in the drafting of the Children’s Bill. I was deeply concerned with the shortcomings that existed in the Child Protection Act 1994. It is a good thing that today the Child Protection Act is being repealed *in toto*. This law has had its day. When I took office at the Ministry of Child Matters in 2017, I started working on the draft Bill. Then Mrs Roubina Jadoo-Jaunbocus took over the ministerial responsibility for some months and continued with the assignment I started. When I took office again in 2018, I continued, I must say, the work with the same zeal until we

finalised the Children's Bill and, as you already know, I introduced the initial Children's Bill for a first reading in the House on 17 September 2019.

Allow me, Mr Speaker, Sir, at this stage to give to the House a brief history of how the Children's Bill came into existence. At that material time, I had discussions with the then EU Ambassador to Mauritius, Mrs Marjaana Sall about the intention of our Government to introduce a Children's Bill in Parliament. The services of Mrs Irina Uromova an expert on child issues from the European Union, was retained to assist the Ministry in the drafting of the Children's Bill. Let me pause for a moment here to extend our gratitude to the European Union and to the expert, Mrs Uromova, for their contribution and support in the drafting of the Children's Bill. Officers of the Ministry and myself have had extensive consultations and discussions with key stakeholders such as the State Law Office, the Attorney General's Office, the Director of Public Prosecution's Office, the Judiciary, the Office of the Ombudsperson for Children, the Civil Status Office, the Commissioner of Police, the Commissioner of Prisons, the Probation and Aftercare Service amongst others.

Furthermore, Mr Speaker, Sir, as I have said, *oui, on a été à l'écoute des enfants*, we have considered their views here, their perspectives as well as their proposals and solutions. *Ce n'est pas un projet de loi qui a été fait à la va-vite*, we have put our heads together to finalise the initial Children's Bill. *Ce projet de loi a été un travail de longue haleine* - four years - because of the wide range of elements involving children that have to be addressed, be they emotional or legal. We could not have tabled such a key legislation within a lesser time.

In 2019, in view of the General Elections, the National Assembly was dissolved. As a result the previous Children's Bill could not be debated in this August Assembly. We went in the General Elections with the Children's Bill in our Government Programme again for 2020-2024. Let me refer you to paragraph 139 of the said Programme –

“Our children are the future of our country and the protection of their rights is a priority. To this end, a new Children's Bill will be introduced very shortly”

Mr Speaker, Sir, we won the General Elections. After the General Elections, the Children's Bill has remained a priority for our Prime Minister. *Ce projet de loi demeure au cœur des priorités de notre Premier ministre.*

Allow me now to turn to the Children's Bill itself. I will start with the element of best interest principle. I am referring to Clause 4 of the Bill. This principle is of primary consideration in all actions concerning children. It is derived from Article 3 of the UN

Convention on the Rights of the Child. Legal practitioners in the House know very well that in all cases concerning children, the Court takes into consideration the best interests of our child. In fact, all actions concerning the child shall take full consideration of his best interest. It is, in fact, the main guiding principle in the drafting of this piece of legislation, throughout the present Bill, makes reference to the best interest principle. This principle, Mr Speaker, Sir, is a positive step forward.

Mr Speaker, Sir, two other elements of the Bill on which most of the debates have been centered: *l'âge de mariage et l'âge de la responsabilité pénale*. In fact, in all jurisdictions around the world, *l'âge de mariage et l'âge de la responsabilité pénale* have been the subject of extensive debate. Let us consider *l'âge de mariage*. We have witnessed in this very House that Members of the same parties on the other side of the House have different opinions on *l'âge de mariage*. In the initial Bill of 17 September 2019, at clause 9, we stipulated, I quote –

**“9. Forcing a child to be married**

- (1) No person shall force a child to be married civilly or religiously.
- (2) Any person who contravenes subsection (1) shall commit an offence (...).”

However, in the present Children’s Bill, the Civil Code and the Civil Status Act are being amended to remove all derogations. Now, the legal age to get married either civilly or religiously is being set at 18 without any derogation or exception. Mr Speaker, Sir, you will recall that following the introduction of the initial Children’s Bill in Parliament, on 17 September 2019, it was made available on the Website of the National Assembly for views. Following the introduction of the initial Children’s Bill in Parliament, we have always said that our Government is open to views and suggestions and, if need be, changes and modifications will be brought in the Children’s Bill so as to better protect our children. Moreover, Mr Speaker, Sir, after the introduction of the initial Children’s Bill in Parliament on 17 September 2019, the Ministry responsible for child matters received a letter of urgent appeal dated 27 October 2019 from the African Union. The African Committee of Experts on the Rights and Welfare of the Child recommended that our Government take three actions.

First, explicitly provides for the repeal of Article 145 of Civil Code which allows the derogation.

Second, ensures that the minimum age of marriage is set at 18 and no exceptions are allowed either in Civil Law, Customary Law or Religious Law.

Third, amends section 9 of the Draft Bill to prohibit child marriage in any conditions, referring to clause 9 of the initial Children's Bill.

Mr Speaker, Sir, in the utmost interest of our children, these are important views that our Government could not have ignored. No law is static, it keeps evolving, and this is what a piece of legislation is all about. We have, therefore, brought modifications in the present legislation to better protect our children.

Mr Speaker, Sir, allow me now to turn to the age of criminal responsibility, a clause which has been taken up by most of the interveners before me. In our existing law, there is no provision for a minimum age of criminal responsibility. Sections 44 & 45 of the Criminal Code only make provisions for minors under 14 *avec ou sans discernement*, if it is determined that an accused child under 14 has acted *sans discernement*, he is generally acquitted, but if it is determined that he has acted *avec discernement*, he is condemned to imprisonment in a reformatory. This is what the existing law provides.

Mr Speaker, Sir, in the present Children's Bill, a provision setting out the minimum age of criminal responsibility is being introduced. The proposed age is 14. This is in line with the recommendation of UN Committee on the Rights of the Child in its General Comments No. 24, dated 18 September 2019. I will come to the recommendations shortly.

First of all, Mr Speaker, Sir, I wish to bring some clarification as to why the age of criminal responsibility has now been set at 14 as opposed to 12 in the initial Children's Bill. I refer to the intervention of hon. Uteem where he stated that the age of criminal responsibility should have been 14 and 16, based on the General Comments of the Committee on the Rights of the Child in 2007. He is making reference of the initial Children's Bill. To enlighten the House, let me quote paragraph 32 of the General Comments 2007, the same document which has been mentioned by hon. Uteem. My reading is, however, different. Paragraph 32 states, I quote –

“It can be concluded that a minimum age of criminal responsibility below the age of 12 years is considered by the Committee not to be internationally acceptable. States parties are encouraged to increase their lower minimum age of criminal responsibility to the age of 12 years as the absolute minimum age and to continue to increase it to a higher age level.”

This clearly shows that the age of 12 was the minimum age of criminal responsibility as recommended by the UN Committee at that point in time. We had set the age of criminal

responsibility at 12 in the initial Children's Bill on the basis of the UN recommendations of 2007. My understanding of the General Comments of 2007, which I have just mentioned, is that the age of 12 was an acceptable minimum age of criminal responsibility, however, countries with a minimum age below 12 were encouraged to increase it to the age of 12 as the absolute minimum age.

Mr Speaker, Sir, when we had set the age of criminal responsibility at 12 in the initial Children's Bill, we were cautious enough to provide safeguards. In fact there was a major caveat, a major condition in the initial Children's Bill: the Director of Public Prosecutions (DPP) had the discretion not to prosecute a child between 12 and 14, based on several factors, such as the educational level, age and maturity of the child and whether the child has been used by an adult. The choice was open to the DPP to call for an assessment of the child by a probation officer and for a magistrate to order an evaluation of the criminal capacity of the child between 12 and 14. As you can see, all the necessary precautions were taken while drafting the Bill. So, you must be wondering, if the UN Committee recommended that the age of criminal responsibility be set at 12 in its General Comments 2007, then, why are we now setting it at 14. There is an explanation, Mr Speaker, Sir. The UN Committee has made a new recommendation in its General Comment No. 24 dated 18 September 2019. This recommendation was made after the initial Children's Bill was brought for a first reading. No mention, however, has been made of the General Comment of 2019 by hon. Uteem. Hon. Uteem based himself on the General Comments of 2007 only. Let me quote paragraph 22 of the General Comment No. 24 of September 2019. It stated –

“State parties are encouraged to take note of recent scientific findings, and to increase their minimum age accordingly, to at least 14 years of age.”

Mr Speaker, as you can see the minimum age of criminal responsibility has been set at 14; so, we have relied on the new recommendations. By so doing, our Government is aligning our legislation with the latest recommendations of the UN Committee on the Rights of the Child.

I must say, we stand guided by the recommendations of the UN Committee and also the African Union, and the presentation of the new Bill has given Government an opportunity to bring some modification. In fact, if we have a look at the main objectives of the Children's Bill, you will realise that it is to give better effect to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. This is exactly what our Government is doing. We are abiding by the recommendations.



Mr Speaker, I will now move to Clause 41 - children with serious behavioural concerns. I must say I have visited the Rehabilitation Youth Centre on a number of occasions, it is unfortunate to see children who have not committed any criminal offence being placed up in a Rehabilitation Youth Centre sometimes because they are going through a *crise d'adolescence*. At times, their parents do not even visit them. I have listened to those children. My first response and responsibility has been to work with parents and to enable those children to get back in the family setting. I firmly believe that a child's place is neither in a shelter nor in a Rehabilitation Centre. A child should be at home, in a family surrounding. This is why we have come up with a mechanism to address children with serious behavioural problems. I am here referring to Clause 41 of the present Bill where we are making clear the role of parents instead of focusing the blame on the child. Parenting support will be provided. This Clause seeks to improve parent-child relationships that may be difficult, Mr Speaker.

Clause 41 clearly stipulates that parenting support will be provided to assist parents in fostering healthy parent-child relationship. If parenting support is unsuccessful only then will a child be placed in an institution. The child will not be sent to a shelter or Rehabilitation Youth Centre at first instance. Much effort has been made in this present piece of legislation to support and empower parents to discharge their responsibilities to their children.

Mr Speaker, Sir, you will agree with me that children deserve a childhood free of neglect and abuse. Mr Speaker, Sir, in the amendments circulated, Clause 33 of the Bill puts an obligation on any person who has reasonable grounds to believe that a child has been or is likely to be exposed to harm, to report the matter to the Police Department. I am happy that amendments are being brought today to include in the present Children's Bill the concept of mandatory reporting. I am of the view that it is an important element when we are talking about enhancing the protection of children. In fact, this concept puts a responsibility on professionals such as health care practitioners, amongst others, to report any case where he has reasonable ground to believe that a child may be exposed to harm.

Allow me to say a few words on the Children's Court. Mr Speaker, Sir, this key legislation would have been incomplete without the Children's Court. I have had the opportunity of visiting the Children's Court in Australia. Believe me, having a separate Court for children makes all the difference. The Children's Court will be a huge step in our judicial system. I am confident that the setting up of the Children's Court will be child friendly and Court decisions will be made in a timely manner. Allow me to pause here. I wish to have on record our gratitude to the two former Chief Justices and the present Chief Justice for their unflinching and valuable support in the setting up of the Children's Court, Mr Speaker.

With regard to the Child Sex Offender Register Bill, I believe the new reporting mechanism, which is being set up under that Bill, will, hopefully, lead to a reduction of sexual offences against children. Our Government takes violence as a very serious issue and, with the presentation of the present Children's Bill, we are addressing this issue very seriously.

Referring to hon. Xavier Duval who said that more children need to move to foster families, I must say it is not that easy, Mr Speaker. I have been at the Ministry of child matters for certain years. On paper, the measure of foster placement looks great, but, in reality, we have not seen a big surge of people coming forward to offer foster placement in spite of all efforts made by the Ministry. The culture in Mauritius is more towards adoption than foster placement. Foster placement means a couple takes on a child who needs a home for a certain period of time then he goes back to his or her biological parents or single parent or to a next-of-kin. We have seen that our society is more inclined towards adoption, so, I am sure the Ministry, the officers, the Minister will do the needful to continue sensitising the public about the benefit of foster placement.

Mr Speaker, Sir, before I conclude, I would like to acknowledge also the valuable contribution of the Ombudsperson for children in promoting the welfare of children and their protection because we all know that the Office of the Ombudsperson for Children plays a very great role when we talk about the promotion, welfare, well-being of our nation's children.

Mr Speaker, Sir, to conclude, allow me to say that our Government has made the Children's Bill a reality. What an achievement! I want to take a moment to congratulate the hon. Minister Kalpana Koonjoo-Shah who, under the enlightened leadership of our Prime

Minister, hon. Pravind Kumar Jugnauth, brought these three Bills to Parliament. To believe something possible is to make it happen, Mr Speaker, Sir. Our Government did it. We have delivered on the promise made in our Government Programme 2015-2020, 2020-2024 about the introduction of a Children's Bill in Parliament. We have lived up to our responsibilities. Today will be a great day, the Children's Bill will be voted.

Our Prime Minister has always been constant in his commitment to better protect the most innocent and incredibly vulnerable members of our society. He has personally, I must say, followed up on all matters relating to the Children's Bill whether the initial Bill or the present Bill, in an effort to ensure that we bring the best possible legislation to Parliament for the well-being, care and protection of our children.

On this side of the House, we turn words into tangible actions. The serious work which started in 2017 has, in fact, culminated into a beautiful piece of legislation, Mr Speaker, Sir, the Children's Bill.

Thank you.

**Mr Speaker:** I now suspend the sitting for one hour.

*At 1.27 p.m., the sitting was suspended.*

*On resuming at 2.36. p.m. with Mr Speaker in the Chair.*

**Mr Speaker:** Please be seated! Hon. Prime Minister!

**The Prime Minister:** Mr Speaker, Sir, we are debating today three important pieces of legislation which will have a far-reaching impact on our society for many years to come.

The Mauritian society is built on strong family values which are themselves deeply influenced by the wealth and diversity of our cultures and traditions. The family is, in fact, the foundation of social stability and progress in our country, and the well-being of the child is of prime consideration.

The Bills, namely the Children's Bill, the Children's Court Bill and the Child Sex Offender Register Bill, which are before the House, are of paramount importance to make of Mauritius a better and safer place for our children.

Children have rights that cater for their specific needs in addition to enjoying the same general rights as adults. They have every right to expect love, care, attention, and security within their respective families and in the community.

We all have a duty to protect our children, and this Government is committed to adopting the appropriate legal framework to address risks of unfortunate cases of abuse, ill-treatment, violence, exploitation of all forms, and deprivation of basic liberties against children.

We are drawing on international best practices to devise the laws that we hope will take us through this decade and beyond as a fair, equitable and inclusive society that cares for its most vulnerable members.

M. le président, les textes de loi que nous débattons représentent une avancée considérable en faveur du bien-être des enfants. Jamais un gouvernement n'a autant fait pour corriger les injustices auxquelles sont confrontés les enfants, les femmes, les personnes âgées, et les plus vulnérables de notre société.

Il est vrai, néanmoins, que le pays ait connu, ces derniers temps, des cas atroces de violence à l'égard des enfants, dont un bébé de deux ans, des personnes âgées, et des femmes.

La population a exprimé son indignation et sa colère face à ces actes. C'est un sentiment tout à fait légitime et compréhensible. Cela dit, il faut surtout éviter d'essayer de trouver des boucs-émissaires. Ces tristes événements ne font qu'accentuer notre détermination à œuvrer pour le bien-être des enfants.

Le gouvernement mène un combat inlassable sur tous les fronts - contre la violence conjugale, contre le trafic de drogue, contre les abus à l'encontre des enfants, contre la délinquance, et contre le crime organisé.

Laissez-moi rappeler à la Chambre que la sécurité de nos citoyens est au cœur de nos préoccupations et depuis que nous sommes à la tête du pays, nous avons choisi de nous ranger du côté des victimes et des plus faibles. Ce gouvernement ne laissera pas les agresseurs d'enfants dormir tranquille.

M. le président, la peur, l'insécurité, et l'angoisse doivent changer de camp. C'est justement la finalité des textes de loi qui sont devant cette auguste Assemblée aujourd'hui.

Je dois souligner que le *Child Sex Offender Register Bill* est un développement majeur pour prévenir les risques d'agression sexuelle sur les enfants. Ce registre permettra aux autorités de répertorier et de surveiller les agresseurs de manière plus efficace et de maîtriser leur influence nocive dans la communauté. Les prédateurs d'enfants deviendront une catégorie de criminels sous haute surveillance, et leurs faits et gestes seront passés à la loupe.

Nous prenons la mesure du traumatisme que vivent les enfants qui sont victimes d'agression sexuelle. Ces victimes sont malheureusement exposées à un traumatisme encore plus cruel lorsqu'elles sont appelées à témoigner devant les tribunaux. C'est pour cela que le *Children's Court Bill* vient proposer un cadre nettement moins intimidant aux victimes.

Cette nouvelle Cour offre aussi une voie rapide pour traiter les cas d'abus sur les enfants et assurer que justice soit rendue dans les meilleurs délais.

Toutefois, il est nécessaire d'agir en amont. D'où les principaux objectifs du *Children's Bill* qui vise à protéger et promouvoir les droits des enfants. Avec le *Children's Bill*, le statut de l'enfant au sein de la société sera revalorisé.

Qui plus est, il n'y a plus d'exception quant à l'âge minimum légal du mariage ; à 18 ans, dans tous les cas. Nous sommes convaincus que les enfants doivent pouvoir vivre pleinement leur enfance et leur adolescence.

Le rôle des parents constitue un élément fondamental pour la protection des enfants.

Mais lorsque la cellule familiale n'arrive pas à assumer ses responsabilités, il faut des structures alternatives fiables pour prendre en charge les enfants qui sont laissés à eux même. D'où le rôle du *Child Protection Services* dans le nouveau cadre légal.

M. le président, le *Children's Bill* traite d'un large éventail de délits, tels le mariage forcé, l'abandon d'enfant, la prostitution infantile, l'enlèvement des enfants par des parents ou par d'autres personnes, la pornographie infantile et le *bullying*. Tous les actes qui puissent être préjudiciables à la dignité et à la sécurité de l'enfant seront sévèrement punis.

Les enfants ne devront pas, non plus, subir des actes de discrimination sur la base de leur sensibilité culturelle, appartenance religieuse, race, genre, caste, statut socioéconomique, opinion politique, condition physique et mentale, entre autres.

La nouvelle architecture légale et institutionnelle qui se met en place vient rehausser de manière notable les garde-fous contre les abus à l'encontre des enfants.

Compte tenu de ces considérations, ces projets de loi nécessitent, de ce fait, un engagement non partisan de la part de tous les Membres de cette auguste Assemblée.

Gardons-nous de faire de la politique partisane sur le dos de nos enfants. Ici, je tiens à saluer les parlementaires qui ont compris les enjeux de ces projets de loi et qui les ont abordés de manière non partisane.

Je note, à ce titre, que l'honorable Arianne Navarre-Marie, qui avait piloté le projet de loi pour la mise sur pied du Bureau de l'*Ombudsperson for Children* en 2003, en sa capacité alors de ministre de la Femme, a estimé dans son intervention que les nouvelles lois représentent, et je cite, « une belle avancée. »

Malheureusement, certains sont restés fidèles à leurs habitudes et essayent de tirer un capital politique sur un sujet aussi crucial. Ces textes de loi, dois-je le rappeler, ont fait l'objet de longues discussions pour intégrer les éléments les plus pertinents au contexte et aux exigences de notre société.

Mr Speaker, Sir, taking into consideration the importance of these legislations, debates have been held on three different occasions, including of course, today's Sitting. Thirty-three members, from both sides of this House, have already expressed their views and made proposals to these legislations. We have listened carefully to all proposals, and as a responsible Government, we have taken onboard some proposals and recommendations which have been made by other stakeholders.

Mr Speaker, Sir, the proposed Committee Stage amendments which have been circulated in fact reflects this Government's commitment towards our children.

Since we are prohibiting marriage of children under the age of 18 without exceptions, it stands to reason that we must prevent cohabitation with children. We are, therefore, providing, under the proposed new clause 12 of the Children's Bill that no person shall live together with a child, under the same roof, either as spouses or unmarried partners.

In addition, we are also providing that any person who causes or forces a child to live together with another person, under the same roof, either as spouses or unmarried partners, shall commit an offence.

Mr Speaker, Sir, as the law stands now, any person who has sexual intercourse with a child under the age of 16, even with the consent of that child, shall commit an offence. However, it is currently not a criminal offence where a person commits an indecent act upon a child over the age of 12 where the child has consented thereto.

There is a discrepancy regarding this age limit. We need to better protect our children from being sexually abused. Hence, we are aligning this age limit when it concerns sexual acts upon children and we are, therefore, providing, through consequential amendments being proposed to the Criminal Code, more specifically to section 249(3), that it will be an offence

to commit an indecent act upon a child below the age of 16, even though the child has consented thereto.

As a consequence to this amendment, clause 19 of the Children's Bill will also be repealed and replaced to provide that a child under the age of 16 shall be deemed to be sexually abused where the child has taken part whether as a willing, or an unwilling, participant or observer in any act which is sexual in nature.

Mr Speaker, Sir, the three pieces of legislation which are before the House reflect the aspirations of the whole country to ensure a safer childhood for our younger generations.

Here, it should be reminded that the United Nations Convention on the Rights of the Child enshrines a comprehensive set of civil, political, economic, social, and cultural rights for all children. The United Nations Convention on the Rights of the Child, as one of the core international human rights treaties, has been widely ratified or acceded to by State Parties. 195 States, including Mauritius, have committed to implement the provisions of the United Nations Convention on the Rights of the Child through laws, policies, plans, and programmes.

Mr Speaker, Sir, the United Nations Convention on the Rights of the Child advances international standards on children's rights in a number of ways and makes them legally binding.

Mauritius is strongly committed towards the promotion and protection of children's rights. This is evidenced by the number of international and regional human rights instruments that Mauritius has signed with the aim of respecting, protecting, and fulfilling children's rights. We have, today, a golden opportunity to further entrench the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child into the overarching legal structure of the Republic of Mauritius through the Children's Bill, the Children's Court Bill and the Child Sex Offender Register Bill.

The Children's Bill provides for the age of criminal responsibility to be increased from 12 years old to 14 years old, in line with the recommendations also of the Ombudsperson for Children.

In addition, the situation regarding Articles 145 to 148 of the *Code Civil Mauricien*, which allow for children from 16 to 18 years of age to be married with parental consent or with "*dispense d'âge*" of a "*Juge en chambre*", is being remedied.

We are now ensuring that, in line with the obligations of the Republic of Mauritius under Article 21(2) of the African Charter on the Rights and Welfare of the Child, the minimum age of marriage is set at 18, and that, without exception.

Mr Speaker, Sir, Government is taking the necessary actions to prevent children from growing up witnessing violence and being exposed to emotional, physical, and sexual abuse.

As a measure of last resort, a child victim of violence, neglect and abuse is removed from his home setting and placed in a residential care institution, especially when the parent or siblings themselves are abusers and the child has nowhere else to go.

However, it is not our aim to keep children for a long period in a residential care institution.

The place of a child is in his or her family. But the rights of vulnerable children must take precedence over the rights of biological parents, especially where those parents are causing harm to their children.

And in this context, the Child Protection Services are geared towards addressing neglect and abuse on children.

For those children who are placed in residential care institutions, we will provide all possible support and security. For teenagers who are neglected or who are vulnerable to exploitation, we will scale up initiatives and provide further support for their development.

Mr Speaker, Sir, the Children's Bill highlights both children's and parents' responsibilities and rights. The duties and the rights of the child will be based on his or her evolving capacities, age and maturity.

With regard to parents, any person having the legal responsibility of the child shall provide for his or her basic needs, including the responsibility to take decisions relating to the child's day-to-day upbringing.

The Bill ensures that there is clarity about the responsibilities of each and every person with regard to child protection and safety.

The Bill also makes provision for the Child Services Coordinating Panel, in line with the Concluding Observations and Recommendations of the Committee of Experts on the United Nations Convention on the Rights of the Child 2015.



Mr Speaker, Sir, the Child Sex Offender Register Bill is meant to reinforce this Government's commitment to further protect our children from sexual abuse. This allows me to speak on the main provisions of this Bill.

The purpose of this Bill is to establish a Child Sex Offender Register, to be known as the CSO Register, with a view to reducing and preventing the risk of sexual offences against children.

The CSO Register will assist in –

- (a) monitoring and tracking persons in the community who have been found guilty of committing sexual offences against children; and
- (b) detecting and investigating sexual offences against children.

In addition, the Commissioner of Police will be empowered, in the interest of public safety, to disclose personal information of persons who have been found guilty of committing sexual offences against children, to another Government agency and foreign agencies, if required, for the purposes of –

- monitoring the whereabouts of those offenders;
- verifying personal information that are reported by those offenders;
- managing the risk that those offenders may commit further sexual offences against children, and
- managing any risk or threat to public safety.

Mr Speaker, Sir, the Children's Court Bill addresses our quest for the expedient administration and delivery of justice to the children of our country.

The benefits of setting up the Children's Court are, amongst others –

- to make it easier and less stressful for children to testify;
- to speed up the time taken for the trials;
- to introduce special and child-friendly measures, for example, the possibility for children to identify their perpetrators behind a screen and not having to confront them face to face and also to use video recorded statements of children and video links during the Court proceedings;

- to have appropriately trained Police Officers, specialising in interviewing techniques with children, and
- to have a guardian who may –
  - (a) advocate for the child’s best interests before a Court;
  - (b) monitor the child’s best interests, including any impact on his rights caused by the involvement in the justice process, throughout the investigation and the judicial proceedings, and
  - (c) make recommendations relating to the child’s best interests to the Police, prosecutor and any other person or body in relation to any Court proceedings involving the child.

Mr Speaker, Sir, I would like to end by congratulating the hon. Minister of Gender Equality and Family Welfare for bringing to the House the long-awaited Children’s Bill alongside with the two new Bills, the Children’s Court Bill and the Child Sex Offender Register Bill. I must also thank former Minister, hon. Mrs Fazila Jeewa-Daureeawoo for having previously worked extensively in the preparation of these Bills.

As Prime Minister, I am proud that my Government is today bringing fundamental improvements which were long overdue and which no former Government has had the courage to bring. I have no doubt that these will give better care, protection and assistance to our children.

We, on this side of the House, are satisfied that we have lived up to the challenges that children are faced with and are confident that the changes being brought will not only benefit children but our society at large.

Mr Speaker, Sir, as the great Statesman and former President of the Republic of South Africa, Nelson Mandela once said, and I quote –

“There can be no keener revelation of a society’s soul than the way in which it treats its children”.

Thank you.

**Mr Speaker:** Hon. Minister Mrs Koonjoo-Shah!

(3.00 p.m.)

**The Minister of Gender Equality and Family Welfare (Mrs K. Koonjoo-Shah):** Mr Speaker, Sir, let me, at the very outset, thank the hon. Prime Minister for his intervention which reaffirms his conviction and commitment to promote the very best interests of our children.

I also wish to thank all hon. Members from both sides of the House who have contributed in a fruitful manner to the debates on the three Bills, namely –

- (i) The Children's Bill;
- (ii) The Children's Court Bill, and
- (iii) The Child Sex Offender Register Bill.

Mr Speaker, Sir, allow me to reiterate that the Children's Bill aims to provide for a more comprehensive and modern legislative framework with a view to addressing the shortcomings of the existing Child Protection Act and to give better effect to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

The object, Mr Speaker, Sir, of the Children's Court Bill is to provide for the establishment of a Children's Court which will have jurisdiction to hear and determine cases involving our children. The establishment of this dedicated and specialized court has been rendered necessary with a view to ensuring that the best interests of children during Court proceedings are safeguarded in a child-friendly environment,...

*(Interruptions)*

and to make sure...

**Mr Speaker:** Allow the Minister to continue!

**Mrs Koonjoo-Shah:** And to make sure that justice is delivered expeditiously in cases involving our children.

In addition, we have come forward with a Child Sex Offender Register Bill which will establish a Child Sex Offender Register, which in turn will be monitoring and tracking people in the community who have been found guilty of committing sexual offences against our children.

Mr Speaker, Sir, this highly secure register, which will be in the custody of the Office of the Commissioner of Police, will also be shared with international agencies as and when appropriate.

Mr Speaker, Sir, I am pleased to note that the necessity for the enactment of these three Bills has been understood and acknowledged by hon. Members from both sides of the House.

When I listened to Members sitting on the other side of the House, Mr Speaker, Sir, it is obvious that the Opposition have very much split opinions, from within their own parties, on many provisions of these Bills.

The Members from the MMM party, for example, have divergent opinions on the provisions for the age of criminal responsibility, provisions for the legal age of marriage with or without derogation, on the perception of duplication in the role of the Panel with that of the Ombudsperson for Children.

The Members of the Labour Party, on the other hand, argued that our hospitals are not places of safety, which is not only misleading but is also a shame.

The PMSD party showed much incoherence in their arguments as usual, going to the extent of arguing on allocation or misallocation of resources which is not within the subject matter under debate in this House today. I will urge them to keep those for budgetary debates, where they actually do belong, Mr Speaker, Sir.

On the other hand, I do deeply appreciate the interventions of all my colleagues on this side of the House, who, through their able arguments, have shown, within the ambit of their respective mandates, the complementarity in their contributions in making a better supportive environment for upholding the rights of our children.

Mr Speaker, Sir, with your permission, I will now come to items raised in this House regarding the three Bills and to subsequent amendments which have already been circulated.

Mr Speaker, Sir, hon. Ms Joanna Bérenger made a remark that no provisions are made on the Rights of the Child in the Bill. Allow me to reassure the hon. Member that we need not explicitly specify the 45 articles of the UNCRC that underpin the Rights of the Child in the Bills as rightly pointed out in his intervention by hon. Nando Bodha. I wish here to draw the attention of Members of the House, that the rights are reflected and captured in all the provisions of the Bills.

Mr Speaker, Sir, after having listened to hon. Members from the other side of the House, I do feel that there are some apprehensions regarding the timely and effective implementation of the provisions of the Bills due to lack of resources, including financial and human.

Implementation, Mr Speaker, Sir, of the provisions in these Bills cannot be achieved by only one Ministry. Inculcating a culture of protection, development and welfare of our children is a matter of collective actions. In Government, a multidisciplinary approach is being adopted to improve the lives of our children through an enhanced delivery system, be it at the level of my Ministry or other Ministries like education, health and youth services.

Mr Speaker, Sir, we have all listened to the contributory efforts for our children's development from my colleague Ministers. Together, as a Government, we provide services to complement one another under the overall vision for an inclusive and equal society where not a single child is left behind.

For instance, with regard to the Children's Court, the House may rest assured that an implementation plan is being finalised together with the Police Department and the Master and Registrar of the Supreme Court, regarding resources required to operationalise the Bills in terms of human resources, infrastructure, IT peripherals and other equipment as well as going to create a child conducive environment where our children do not need to go through lengthy, complex and very daunting court procedures, Mr Speaker, Sir.

I also wish at this stage to inform the House that my Ministry has consulted the Pay Research Bureau and the Ministry of Public Service, Administrative and Institutional Reforms to ensure that appropriate actions are taken to urgently review the conditions of service and remuneration package of my Family Welfare and Protection Officers so that a round the clock, 24/7 service is provided.

The setting up of a Child Services Coordinating Panel will, in that respect, Mr Speaker, Sir, be instrumental in ensuring effective implementation of the provisions of these Bills.

Mr Speaker, Sir, in addition to Government's evident commitment, the primary responsibility to guarantee the safety and happiness of our children rests with the parents themselves. And at this juncture, I wish to make it clear that Government is here to domesticate laws to ensure the proper functioning of all our concerned institutions, but I cannot lay enough emphasis on parental responsibility when it comes to our children's

protection, Mr Speaker, Sir, and these Bills stress out the importance of those responsibilities of parents and go one step further through provisions of sanctions should they fail in that job.

We also rely on the NGOs who are, I must say, doing a marvelous job. Support from the community and the public at large is also critical in improving the lives of our children, because, Mr Speaker, Sir, as I have stated before and I maintain, it does take a whole village, and in this case an entire nation to raise a child's right.

Mr Speaker, Sir, there are no amendments to the Children's Court Bill and the Child Sex Offender Register Bill. There are however some grammatical and typing errors in the Children's Bill which have been corrected. In addition, some wording, phrases and at times, entire paragraphs have been reviewed in order to provide more rationale and greater clarity.

The proposed amendments which will be moved at committee stage have already been circulated, Mr Speaker, Sir. And with your permission, I shall now elaborate on the following amendments –

### **Clause 2: Interpretation**

The words 'Assessment order' have been deleted. Instead new provision has been made at Clause 33 under the title of 'Assessment of Child in need of care and protection'. Mr Speaker, Sir, I will explain the change when I will come to that specific clause.

Secondly, the definition of 'shelter' is being deleted in the definition of "place of safety" as the definition of "Residential Care Institution" is comprehensive enough to include shelters. We have therefore deleted the word "shelter" from the Bill, Mr Speaker, Sir.

Mr Speaker, Sir, hon. Ms Anquetil and hon. Juman have considered hospitals not to be places of safety. I wish to reassure the House that, as highlighted already, by my colleague, hon. Dr. Jagutpal, the Minister of Health and Wellness, in his intervention, our hospitals remain places of safety for our children and there already exist a clearly-defined protocol between his and my Ministry for handling children who are victims of ill treatment.

Mr Speaker, Sir, allow me to also point out that our hospitals in Mauritius adhere to standards of the World Health Organisation as well as providing free health care of international standards to all citizens of this country.

However, Mr Speaker, Sir, once appropriate treatment has been dispensed, officers of my Ministry initiate action to return our children either to their family environment or to a

Residential Care Institution. Moreover, the Interpretation Clause has been amended to include the definition of “mental health care centre”.

#### **Clause 4: Best interests’ principles**

Mr Speaker, Sir, coming to Clause 4 about the Best interests’ principles, my colleague, hon. Dr. Jagutpal has raised an important issue regarding custody of a child who is below the age of 5 years. He proposed that we should give power to Judges based on the best interest principles to also consider giving the fathers the joint custody of children below the age of 5.

Following many reported cases of child abuse where mothers have automatically obtained child custody because children were under five, my Ministry has received representations to the effect that it is important that the Judge considers the parenting capacity before deciding on a case of custody for children less than five years.

Therefore, Mr Speaker, Sir, under clause 4, Best interests’ principles; a new provision has been added and it reads as follows –

“consider, in the cases of a child under the age of 5, all surrounding circumstances and the parenting capacity of both parents of the child before taking a decision regarding its custody.”

#### **Clause 5: Child Participation**

Child participation, Mr Speaker, Sir, under clause 5, the words, I quote –

“so far as is practicable”

have been removed, as we want all our children to have the opportunity to voice out their opinion.

#### **Clause 12: Marriage of, or cohabitation with, child**

Mr Speaker, Sir, clause 12 addresses Marriage of, or cohabitation with, child. Arguments from some Members of the other side of the House, revolve in favour of pregnancy, cohabitation and child marriage.

I have listened to hon. Ms Anquetil, hon. Uteem, hon. Juman, and hon. Mamode regarding the issue on cohabitation. Mr Speaker, Sir, there have been representations from different quarters to make *concubinage* cohabitation illegal between the age of 16 and 18 years on grounds of pregnancy.

There have furthermore been additional representations in favour of a derogation on the age of marriage in exceptional cases to allow minors between 16 and 18 years to marry on the basis of the decisions of one or two Judges of the Supreme Court, as proposed by hon. Paul Bérenger.

Mr Speaker, Sir, I beg to differ and allow me to remind the House, I urge them to actually go and consult Hansard to check what hon. Mohamed stated in this august Assembly on 22 June 2018 whereby he proposed that the age of illegal marriage should be set without any derogation at 18 and we are doing it, Mr Speaker, Sir. And this applies to any child of the Republic, irrespective of their religion, as stated by the hon. Prime Minister earlier in this intervention.

Mr Speaker, Sir, we are proposing an amendment to also prohibit cohabitation of children under clause 12 so as to align it with the logic that our children should focus on their education and development rather than getting entangled in the demanding responsibilities of handling a family for which they are clearly not ready.

It is also important, Mr Speaker, Sir, that children are recognised as any person under 18 and to that effect provision is made in the Children's Bill that children cannot consent to being married or consent to living together with another person as spouses or unmarried partners by virtue of being under age.

Mr Speaker, Sir, in a recent Press conference, hon. Paul Bérenger mentioned that there is no offence for cohabitation in the Children's Bill. I have taken good note and therefore shall propose at the Committee Stage amendments to clause 12 to make it unequivocally clear that for any offence under subsection (1) or (2) of the said clause, a fine not exceeding one million rupees and imprisonment for a term not exceeding 10 years shall be applicable.

Mr Speaker Sir, coming to the issue of legal age of marriage, there have been enough arguments raised during the debates. Child marriage, we all agree, affects children negatively in a number of ways. Firstly, the young wife-to-be has to take care of the household which more often than not means that she can no longer pursue an education. Secondly, there are negative health effects on the girl child which are often pregnancy-related inasmuch as teenage girls are not physically, emotionally or economically prepared for pregnancy. As a result, they can face the dangers of premature labour, complications during delivery, and even maternal mortality, Mr Speaker, Sir.



Mr Speaker, Sir, allow me to report with distress that in Mauritius, we have unfortunately had cases of the deaths of 12 or 13-year-old girls, pregnant and married. Mr. Speaker, Sir, according to the Article 29 of the African Charter on the Rights and Welfare of the Child, which states that, I quote -

“Governments should do what they can to stop harmful social and cultural practices, such as child marriage, that affect the welfare and dignity of children.”

Mr Speaker, Sir, with these bills, we are not only heading in the right direction, but most importantly, we are not going to be looking back.

Mr Speaker, Sir, on this side of the House, we firmly believe that teenage pregnancy should not be used as an excuse to get children married prematurely. Instead we have to impart sexual education and massive sensitisation to our children so that they do not get entrapped in the tentacles of teenage pregnancy. My colleague, the hon. Vice-Prime Minister, Minister of Education, Mrs Leela Devi Dookun has already very clearly elaborated on the measures taken in the schools to address the surge of violence, teenage pregnancy, bullying and emotional instability of children and adolescents. Allow me to quote her, Mr Speaker Sir -

*“...nous avons introduit dans nos écoles des programmes tels que la gestion des émotions, l'éducation à la sexualité. Nous apprenons aux enfants comment gérer leurs émotions, que ce soit la tristesse, la joie, la colère, la frustration, voire même la perte d'un proche et cela afin qu'ils apprennent à mieux se connaître et mieux se prendre en main.”*

Mr Speaker Sir, we should highlight that this Government has rendered tertiary education, be it in the academic or vocational streams, to all children of our Republic. The pathways for their development have thus been broadened consequently and we should rather all seek to maximize on all opportunities to ensure a better and brighter future for all our children.

Mr Speaker, Sir coming to clause 19 which addresses causing, inciting or allowing a child to be sexually abused.

Mr Speaker, Sir, it is with dismay that I have heard many Members from the other side of the House, namely hon. Mrs Navarre-Marie, hon. Ms Anquetil and Ms Joanna Bérenger, hon. Mrs Foo Kune-Bacha, hon. Abass Mamode, including some seasoned

Members like hon. Paul Bérenger and Uteem, that, as per the actual Clause 19 of the Bill, we have reduced the age limit for the offence of *attentat à la pudeur*.

Mr Speaker, Sir, this is totally unfounded and misleading. In fact, as pointed out by hon. Ganoo earlier on in his intervention, this is the actual state of the prevailing law. The Criminal Code more specifically and that is why, Mr Speaker, Sir, I am proposing to amend section 249(3) of the Criminal Code, as stated by the hon. Prime Minister in his intervention again, to increase the age limit from 12 to 16....

*(Interruptions)*

**Mr Speaker:** You don't have the floor! Madam, please!

**Mrs Koonjoo-Shah:** ...so that any person who henceforth commits an indecent act upon a child under the age of 16, in lieu of 12, even with the consent of the child, shall be committing an offence.

Clause 26, Mr Speaker, Sir, addresses bullying and, at this stage, I cannot but thank my colleague hon. Deepak Balgobin who has made a very fruitful contribution by raising issues such cyber bullying, sextortion, cyberstalking among others. We have redefined "bullying" in Clause 26 to include, I quote -

"by whatever means including information and communication technologies" in order to capture cyberbullying.

Mr Speaker, Sir, following representations made by some NGOs, I have also amended Clause 29(1) (f). The words, I quote -

"including HIV and AIDS"

have been deleted so as not to single out and stigmatise any group affected by life-threatening diseases.

Mr Speaker, Sir, after the tragic demise of minor Ayaan, we have deemed it important to include, under aggravating circumstances, harm caused by unmarried partners of either parent of a child. Hence, under Aggravating Circumstances at Clause 29, two new provisions have been included, and it reads as follows -

- the offender is the parent of the child; or
- the offender is the unmarried partner of the child's father or mother.

Mr Speaker, Sir, coming Police Assistance under Clause 32, 'reporting procedure in case of child in need of care and protection' has been deleted and replaced by a new section labelled as Police Assistance. Mr Speaker, Sir, for the past 25 years, the situation has been like this and often my Family Welfare and Protection officers have had to visit isolated, dangerous locations and often have to deal with mentally unstable and violent individuals without being able to provide prompt assistance to a child in danger. I must take this opportunity, Mr Speaker, Sir, to commend the dedication of all the officers of my Ministry. And Government wants to remedy this situation. An amendment is being proposed to ensure that there is primary intervention of the Police in criminal cases of child battering, sexual abuse, physical assault and for the sake of expediting criminal investigation by securing evidence as appropriate. The Police is, therefore, being empowered to intervene where a child is at risk, to provide for its safety and security as warranted.

This shows, Mr Speaker, Sir, the effort and commitment of this Government to address existing challenges in intervention for child protection. I must stress out Mr Speaker, Sir, that Police assistance extended under Clause 32 is in additional to, and not in derogation from, the functions and powers of the Police under the Police Act.

Mr Speaker, Sir, Clause 33 has also been deleted and replaced. Following further discussions held, the need to apply for an Assessment Order to be approved by a Magistrate, to intervene in reported cases of child in distress, no longer arises as it will further burden the system. Such an initiative will improve the response time that the CDU officers take for assessment of victims. The new Clause 33 has simplified the process of assessment of the child's need as there will no longer be the need for a specific Court Order to initiate an assessment anymore. However, as a last resort, if the need arises, for cases where the child has to be removed from a site of violence, an Emergency Protection Order will be applied for.

Mr Speaker, Sir, my Ministry will continue to protect the child from further abuse and neglect while maintaining the integrity of the family with a rehabilitative focus in all interventions.

Mr Speaker, Sir, coming to Clause 34 which addresses Mandatory Reporting for Child in Danger. Following very constructive debates on mandatory reporting for child in danger, we have included a new clause to ensure that this provision is reinforced in the Bill.

While we are laying the responsibility for reporting on every citizen of the Republic of Mauritius, we still want to lay emphasis on the duty to report by key professionals such as

medical practitioners, nurses, psychologists, dentists, pharmacists, other health personnel, for example, administrators of hospital facilities but the obligation to report is not limited only to those treating injuries. It encompasses other categories of employees such as those working in child care institutions, educational institutions, reform institutions, other members of the community inclusive of educators and NGOs are also being called upon to mandatorily report a case of abuse and maximum precaution will be taken to protect the reporters and whistle blowers' identity.

Mr Speaker, Sir, subparagraph (v) of paragraph (c) of Clause 38 has been deleted and replaced. This provision has been rephrased in a spirit to prevent a perpetrator who happens to be a parent to have access to the child.

Clause 55, Mr Speaker, Sir, addressing juvenile not to be prosecuted or criminal proceedings against juvenile to be discontinued. Mr Speaker, Sir, subsection 4 has been deleted as the discretion of the DPP has been upheld to offer diversionary programmes to juvenile offenders having committed serious crimes.

I have mentioned earlier, Mr Speaker, Sir, that the place of our children is at school. However, juvenile offenders need better supervision and support and these diversionary programmes may respond to the needs of the juvenile offenders in a more productive manner and address the issue that the juvenile system may cause more harm than good if we are exposing our youth to circumstances that may actually increase delinquency.

Mr Speaker, Sir, Clause 66 makes provision for the Appointment of a Guardian ad litem. This provision will not limit the recourse to guardian ad litem to officers working with children only but it will also empower the court to appoint a guardian where it is in the best interest of the child and this provision, Mr Speaker, Sir, is yet another measure to further protect the child, especially during court proceedings.

Mr Speaker, Sir, coming to Clause 73: Consequential Amendments, a new subsection (3) has been included thereby deleting the following words from Article 371 (1) of the Code Civil, which reads as follows, I quote –

*“ou son émancipation par le mariage.”*

Since there is no derogation for marriage before the age of 18, there is no need to have a provision for *émancipation* by a marriage.

Mr Speaker, Sir, I would also like to bring some clarifications on other specific comments raised during the debates by Members of the House. I wish to make a comment on the statement made by hon. Duval on the composition of the Coordinating Panel. It is important to note that provision has been made in the Bill for other members to be co-opted on the Panel to assist in specific deliberations. Furthermore, some hon. Members have stated that there is an overlapping between the role of the Ombudsperson for Children and the role of the Coordinating Panel. I would like to bring to the attention of the House, Mr Speaker, Sir, that following concerns raised, the Ombudsperson for Children's Act, the functions of the Coordinating Panel and the functions of the Ombudsperson for Children's Office have been looked at and they are quite distinctive, there is no overlapping of roles.

Mr Speaker, Sir, institutions should not be at loggerheads. I would urge the Members on the other side of the House, to, at all times, put the best interests of the child at the pinnacle of all their arguments and concerns. This is neither the time for party politics nor the time for petty squabbles, Mr Speaker, Sir.

In their intervention, hon. Paul Bérenger and hon. Duval have raised the issue on adoption. Mr Speaker, Sir, I wish to reassure the House and the hon. Members that my Ministry is close to finalising the Adoption Bill. There are some policy issues that need to be addressed before this Bill is introduced in the National Assembly.

I would also like to shed some lights on the comments of hon. Duval and hon. Woochit with respect to training of officers, Mr Speaker, Sir. Training is a recurrent feature at the level of my Ministry and in order to implement the Children's Bill, training will be conducted across the board for all stakeholders including the Police, the Judiciary, Probation and After Care Services, amongst others. We shall be seeking technical assistance from donor agencies including the UNDP, the European Union Delegation and respective Embassies.

Mr Speaker Sir, hon. Paul Bérenger delved quite lengthily on the sensitive issue of chemical castration. Allow me to reassure the Member that Government will, in due course, after consultations, come up with the appropriate legislation to address the issue of chemical castration regarding child sex offenders and adult sex offenders.

Mr Speaker, Sir, I would, wholeheartedly, have wished to bring a Bill addressing chemical castration as a penalty as a complementary Bill to the Children's Bill but I am a realistic as is my Government that such an important piece of legislation imperatively requires in-depth consultations and analysis with concerned parties.

Mr Speaker, Sir, as I address the House today, I am satisfied as Minister responsible for children's matters that all our hard work has received positive acknowledgement from all quarters. I also wish to share with the House, the numerous messages of congratulations received from the media, the NGOs, the civil society and professionals dealing with children. Even the European Union has very highly commended the various innovative provisions brought up in these three legislations, Mr Speaker, Sir.

The massive participation in the debates shows that, when it comes to our children, the Government strongly advocates for their rights and welfare. Some Members have even gone to the extent of expressing their appreciation by qualifying the Bills as being, I quote: "A beautifully-written piece of law". And I dare say, Mr Speaker, Sir, they are, indeed, beautifully written pieces of legislation.

Mr Speaker, Sir, these Bills have been drafted with care and consideration after protracted consultations with numerous stakeholders, under the guidance of the Attorney-General's Office. Many provisions of the Bills required bold decisions like setting the legal age of marriage at 18 without derogation, prohibiting cohabitation, setting the age for criminal responsibility at 14, setting up a dedicated Child Friendly Court and introducing the Child Sex Offender Register, as well as increasing the range of penalties drastically across the board, for child offenders.

And, Mr Speaker, Sir, you can only achieve those if you have a strong leadership at the helm of the country. These are, possibly, unstated observations but they are so critical and hence, allow me, Mr Speaker, Sir, to pay tribute to the Prime Minister, hon. Pravind Kumar Jugnauth for his second-to-none leadership and for his unflinchingly supporting my views, as Minister responsible for child matters, on these very critical and very sensitive provisions.

Mr Speaker, Sir, in the light of the several amendments that have been proposed, the title of some Parts, Sub-parts and Sub Sub-parts will be changed. I therefore invite the Clerk of the National Assembly to do these changes, as have been proposed in the amendments circulated at editorial stage.

And, as a general observation, after listening to hon. Members of this House, it is noteworthy that there is quasi unanimity in most of the provisions in the Bills.

I would also like to thank all the stakeholders who have worked in collaboration with my Ministry, namely the Attorney General's Office, the Attorney General himself, hon.

Maneesh Gobin, the Office of the Ombudsperson for Children, the Police Department, the European Union, all Ministries and Departments.

And once again, Mr Speaker, Sir, I am grateful to the hon. Prime Minister for his unfailing support throughout the preparation of these Bills. To be honest, without his foursquare leadership and political will, I must stress, we would not have seen this day today.

Mr Speaker, Sir, we have today laid the foundations for a Republic fit for our children with a '*sentiment du devoir bien accompli*'. I would like to thank all hon. Members who have participated in the debates for their inputs and their constructive criticism.

I am sure that colleagues must have noted that I have taken on board their noteworthy constructive proposals.

And before I end my speech, Mr Speaker, Sir, allow me to state that my belief is that there are two lasting bequests that we can hope to give our children. One is roots and the other, wings. And through these Bills, Mr Speaker, Sir, we are giving them both. Let history remember our legacy when it comes to our children.

With these concluding remarks, Mr Speaker, Sir, I again commend these three Bills to the House.

I thank you.

*Question put and agreed to.*

*Bills read a second time and committed.*

## **COMMITTEE STAGE**

### **THE CHILDREN'S BILL**

**(No. XVII of 2020)**

*(Mr Speaker in the Chair)*

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

*Clause 2 (Interpretation)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated.

"In clause 2 –

- “(i) by deleting the definition of “assessment order”;
- (ii) in the definition of “place of safety”, in paragraph (b), by deleting the words “a shelter”;
- (iii) by deleting the definition of “shelter”;
- (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“mental health care centre” means a centre which provides mental health care in a hospital, or in any other place, which by notice published in the Gazette is declared, under the Mental Health Care Act, to be a mental health care centre by the Minister to whom responsibility for the subject of health is assigned;”

*Amendments agreed to.*

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

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

*Clause 4 (Best interests principles)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated.

“In clause 4(2), by adding the following new paragraph, the full stop at the end of paragraph (m) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (l) being deleted –

- (n) consider, in the case of a child under the age of 5, all surrounding circumstances and the parenting capacity of both parents of the child before taking a decision regarding its custody.”

*Amendments agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5 (Child participation)*

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated.



“in clause 5, by deleting the words “, so far as is practicable,”;”

*Amendment agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clauses 6 to 8 ordered to stand part of the Bill.*

*Clause 9 (Composition of Panel)*

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated.

“In clause 9 (2) –

- (i) in paragraph (a), by deleting the words “subsection (1)(b) to (g)” and replacing them by the words “subsection (1)(b) to (h)”;
- (ii) in paragraph (b), by deleting the words “subsection (1)(h)” and replacing them by the words “subsection (1)(i)”;

*Amendments agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clauses 10 and 11 ordered to stand part of the Bill.*

*Clause 12 (Forcing or causing child to be married)*

**Mr Bérenger:** Clause 12 has been considered. Clause 12 has been replaced and we welcome the fact that it is a new clause 12 that is being proposed to the House. Can I ask for one point of clarification? I heard the Minister say that there will be an amendment to the amendment circulated. Do I take it that therefore there will be an amendment which will read, I suppose, in subsection 3, “any person who contravenes subsection (1) shall commit an offence and so on”, and instead of that, it will be “any person who contravenes subsection (1) and (2)”; to clarify it before we approve that.

Secondly, there is, therefore, under subsection (2), an attempt at defining in the law what is *concubinage*. I am not really happy with the definition in subsection (2), that is –

“No person shall –

- (a) live together with a child, under the same roof, either as spouses or unmarried partners.”

I take it that there is no amendment to the amendment in that case, but the wording needs to be fine-tuned, I believe, not today probably, but it will need to be fine-tuned in the future. And I wonder whether the Minister has really thought through what is being proposed. Marriage is out before 18 and we agree with that. Marriage is out. Between 16 and 18, if two young people are living together, now what that law says, that they can no longer live together –

“No person shall –

- (b) live together with a child, under the same roof, either as spouses or unmarried partners.”

Will the Minister agree that concretely what that means is that if ever two young people and the young woman below 18, if she happens to become pregnant, what this means is that these two young people will no longer be allowed under the law to live together, meaning what? That the one who is going to pay is the child. If there is a young couple that is not allowed to live together, that child will be the one who will be suffering. So, I believe that the Minister needs to look anew at this. No one wants to encourage *concubinage*. No one is happy with the marriage below 18. We agree on that.

**The Chairperson:** Let us listen to the Minister!

**Mr Bérenger:** But is it the right way to forbid two young people - when the young woman is pregnant - to live together, that is, that young child is not entitled to have a father before 18?

**The Chairperson:** Let us hear the Minister!

**Mrs Koonjoo-Shah:** Mr Speaker, Sir, I have listened to the views of hon. Paul Bérenger and this has been canvassed extensively during the debates, I believe, and there is one rule for one nation. If we have to consider putting up different pieces of legislation for each and every specific case, we will never come up with any kind of law in this country, Mr Speaker, Sir.

**The Chairperson:** You may move your amendment, please.

**Mr Bérenger:** An amendment to the amendment.

**The Chairperson:** The one you have circulated, amendment to clause 12.

**Mrs Koonjoo-Shah:** Mr Speaker, Sir, I move for the following amendments -

“by deleting clause 12 and replacing it by the following clause –

**12. Marriage of, or cohabitation with, child**

(1) No person shall –

- (a) marry a child civilly or religiously; or
- (b) cause or force a child to marry civilly or religiously.

(2) No person shall –

- (a) live together with a child, under the same roof, either as spouses or unmarried partners; or
- (b) cause or force a child to live together with another person, under the same roof, either as spouses or unmarried partners.

(3) It shall not be a defence to any person that a child has given its consent to be married or to live together under subsection (1) or (2), as the case may be.

(4) Any person who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 10 years.”

**Mr Bérenger:** Mr Speaker, Sir, we are at Committee Stage, I can say something more on that, but the Minister said that there is going to be an amendment to the amendment circulated.

**The Chairperson:** Let me explain to you, honourable. The amendment has been circulated; she has to move the amendment, then, you come with a counter....

*(Interruptions)*

**Mr Bérenger:** No! That’s not the point!

**Mrs Koonjoo-Shah:** The point has been circulated.

**The Chairperson:** Hon. Minister, can you give more clarification?

**Mrs Koonjoo-Shah:** Mr Chairperson, I am sticking to what has already been circulated. The amendments have been circulated.

**The Chairperson:** This is the reply from the hon. Minister. I am satisfied with the reply. I put the question!

The question is that new clause 12 be read a second time.

*Question put and agreed to.*

*New clause 12 ordered to stand part of the Bill.*

*Clauses 13 to 14 ordered to stand part of the Bill.*

*Clause 15 (Abandonment of child)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated –

“in clause 15(4)(a), by deleting the word “not”,”

*Amendment agreed to.*

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

*Clauses 16 to 17 ordered to stand part of the Bill.*

*Clause 18 (Removal of child from place of safety)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated.

“in clause 18(1)(b), by deleting the words “or run, away” and replacing them by the words “or run away”,”

*Amendment agreed to.*

*Clause 18, as amended, ordered to stand part of the Bill.*

*Clause 19 (Causing, inciting or allowing child under 16 to be sexually abused).*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment as per amendment already circulated, by deleting clause 19 and replacing it by the following clause –

**“19. Causing, inciting or allowing child under 16 to be sexually abused**

(1) No person shall –

- (a) sexually abuse a child under the age of 16; or
- (b) cause, incite or allow a child under the age of 16 to be sexually abused by another person.

(2) For the purpose of subsection (1), a child under the age of 16 shall be deemed to be sexually abused where the child has taken part whether as a willing, or an unwilling, participant or observer in any act which is sexual in nature –

- (a) for any gratification;
- (b) in any activity of pornographic, obscene or indecent nature; or
- (c) for any other kind of exploitation.

(3) Any person who commits an offence under subsection (1) shall, on conviction, be liable –

- (a) where the child is physically or mentally handicapped, to penal servitude for a term not exceeding 30 years;
- (b) in any other case, to a fine not exceeding one million rupees and to penal servitude for a term not exceeding 20 years.

(4) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under this section.”

**Mr Bérenger:** Mr Chairperson, if I can say a few words on this clause 19. Again, as in the case of clause 12, the previous clause is being withdrawn and a new clause, which we most welcome in that case specially. We raised that issue, that a child between 12 and 16, 18, cannot agree to an indecent act, this is what we say. We never said that this Bill is bringing down - we never said that - the age at which an indecent act is illegal, we said that it should be brought up. Either the Minister did not understand what we said, but we never requested...

**The Chairperson:** Now, you are entering in a debate!

**Mr Bérenger:** Sorry?

**The Chairperson:** You are entering in a debate, you have to restrict...

**Mr Bérenger:** Well, Mr Chairperson, at Committee Stage, on a point like that...

**The Chairperson:** You have to restrict yourself ....

**Mr Bérenger:** .... when the whole section is being withdrawn...

**The Chairperson:** ...to the amendment.

**Mr Bérenger:** But, of course, this is what I am talking on.

**The Chairperson:** Yes, but you are debating.

**Mr Bérenger:** Yes, but, at Committee Stage, you are allowed to debate within that section!

**The Chairperson:** Yes, but debate is outside this clause.

**Mr Bérenger:** But, not at all!

**The Chairperson:** Whatever the clause states, then you can talk about the clause.

**Mr Bérenger:** But that's what I am doing!

**The Chairperson:** No, you are not doing that!

**Mr Bérenger:** Well, Mr Chairperson, let me again say, we never said that this Bill brings down to 12 the age where an indecent act is illegal. No! We asked that it be raised and this is exactly...

**Mrs Koonjoo-Shah:** It's been done.

**Mr Bérenger:** ...what the Minister is doing. I congratulate her. But don't present wrongly what we said. We never said that this Bill brings down the age of 12. It was already 12 in the *Code pénal* and we welcome the fact it is being raised to 16, as we have requested.

**Mrs Koonjoo-Shah:** Thank you, hon. Bérenger. We would not have been able to do this without you, I guess. It's being done already. Thank you.

**Mr Uteem:** Mr Chairperson, I would like to comment on the proposed amendment to clause 19(1), which makes it an offence, and I read –

“(1) No person shall –

(a) sexually abuse a child under the age of 16; or”

What happens to a child between the age of 16 and 18? May I remind the hon. Minister, section 14 of the Child Protection Act of 1994, as it currently stands, makes it an offence for any person who causes, incites or allows any child to be sexually by him or by another person, and ‘child’ is defined as ‘any unmarried person under the age of 18’. So, as at today, you can have a sexual assault on a child of 17. But what the hon. Minister is proposing is that sexual abuse will only be on children below the age of 16, and if compare this clause that is being proposed to the Bill that was circulated initially, you will see that the original wording of the Bill in section 19(2) (b) reads as follows –

“For the purpose of subsection (1), a child aged 16 or above but under the age of 18 shall be deemed to be sexually abused where the child has taken part as an unwilling participant or observer in any act which is sexual in nature.”

This clause 19(2)(b) is not in the proposed amendment. So, now, what is being proposed is that it will no longer be an offence to sexually abuse a child above 16, but below the age of 18 where that child was an unwilling participant, and we are not agreeable to this proposed amendment.

**The Chairperson:** Let’s hear the Minister.

**Mr Gobin:** With your permission, can I? In the proposed amendment, there is a presumption which is created under section 19(2), with the words ‘willing or unwilling’. This presumption, if my memory serves me right, is not existent in the Child Protection Act, so that there are two regimes. There will be one regime under this legislation and the other one in the Child Protection Act. This is a matter on evidential aspect on case to case basis, but the amendment is being moved as it is.

**The Chairperson:** The question is that new clause 19 be read a second time.

*Question put and agreed to.*

*New clause 19 ordered to stand part of the Bill.*

*Clauses 20 to 25 ordered to stand part of the Bill.*

*Clause 26 (Bullying)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment as per amendment circulated -

“in clause 26(3), in the definition of “bully”, by inserting, after the words “means any behaviour”, the words “by whatever means, including information and communication technologies,”;

*Amendment agreed to.*

*Clause 26, as amended, ordered to stand part of the Bill.*

*Clauses 27 to 28 ordered to stand part of the Bill.*

*Clause 29 (Aggravating circumstances Sub-Part C - interdiction from Guardianship)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment as per amendment circulated –

“in clause 29 –

(i) in subclause (1) –

(A) in paragraph (a), by deleting the word “mitulated” and replacing it by the word “mutilated”;

(B) in paragraph (f), by deleting the words “life-threatening illness, including HIV and AIDS; or” and replacing them by the words “life-threatening illness;”;

(C) by adding the following new paragraphs, the full stop at the end of paragraph (g) being deleted –

(h) the offender is the parent of the child; or

(i) the offender is the unmarried partner of the child’s father or mother.

(ii) by deleting subclause (3);

In Part IV –

(i) by deleting the heading and replacing it by the following heading –

**PART IV – CHILDREN IN NEED OF ASSISTANCE, AND  
CARE AND PROTECTION**



(ii) in Sup-part I –

by deleting the heading and replacing it by the following heading –

**Sub-Part I – Assistance, and Care and Protection”**

*Amendment agreed to.*

*Clause 29, as amended, ordered to stand part of the Bill.*

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

*Clause 31 (Care and protection)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment as per amendment circulated –

“in clause 31, by deleting paragraph (d) and replacing it by the following paragraph –

(d) the child has been, is being, or is likely to be, exposed to harm;”

*Amendment agreed to.*

*Clause 31, as amended, ordered to stand part of the Bill.*

*Clause 32 (Reporting procedure in case of child in need or care and protection).*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment as per amendment circulated –

“by deleting clause 32 and replacing it by the following clause –

**32. Police assistance**

(1) Where a child –

(a) has been, is being, or is likely to be, exposed to harm, the Police shall forthwith intervene to assist in preventing harm being, or further harm to be, caused to the child;

- (b) represents any danger to himself or to others, the Police shall forthwith intervene to assist in preventing any danger to himself or to others;
- (c) is suffering from a mental disorder and is resisting removal to a mental health care centre, the Police shall forthwith intervene to assist in the conveyance of the child to a centre.

(2) Notwithstanding any other enactment, the Police may, for the purpose of subsection (1) –

- (a) enter, at any time, any place where the child is present;
- (b) interview the child without the consent of, or in the absence of, its parent;
- (c) convey the child to a mental health care centre;
- (d) where it is urgent and in the best interests of the child –
  - (i) remove the child to a hospital for a medical examination;
  - (ii) take such other appropriate action as may be necessary.

(3) Where the Police –

- (a) makes an intervention under subsection (1), it shall forthwith report the matter to the supervising officer for an assessment of the child's need of care and protection;

- (b) conveys a child to a mental health care centre or removes a child to a hospital, the child shall, thereafter, be placed under the responsibility of the supervising officer.

(4) (a) Where, pursuant to this section, the Police has reasonable grounds to suspect that an offence has been, or is being, committed, it shall conduct a criminal investigation in the matter.

(b) The Police shall, as soon as practicable, submit a report of its criminal investigation to the supervising officer.

(5) This section shall be in addition to, and not in derogation from, the functions and powers of the Police under the Police Act and under any other relevant enactment.

(6) In this section –

“harm” means physical injury or sexual abuse.”

**The Chairperson:** The question is that new clause 32 be read a second time.

*Question put and agreed to.*

*New Clause 32 ordered to stand part of the Bill.*

*Clause 33 (Investigation and assessment of child in need of care and protection)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment as per amendment circulated: to delete clause 33 and replacing it by the following clause –

### **33. Assessment of child in need of care and protection**

(1) Where a matter concerning a child in need of care and protection is reported to the supervising officer by any person, the supervising officer shall forthwith cause an authorised officer to assess the child’s need of care and protection.

(2) Notwithstanding any other enactment, an authorised officer may, the purpose of subsection (1) –

- (a) enter, at any reasonable time and, where the circumstances so require, with the assistance of the Police, any place where the child is or was living, or such other place which the child usually visits;
- (b) interview the child without the consent of, or in the absence of, the child's parent;
- (c) request the parent of the child or any other person who cares for the child to attend an interview;
- (d) request any person who provides health, social, educational or other services to the child or to the parent of the child to provide information in relation to those services;
- (e) where it is urgent and in the best interests of the child –
  - (i) arrange for a medical examination of the child;
  - (ii) admit the child to a mental health care centre;
  - (iii) remove, subject to section 36, the child to a place of safety for a period not exceeding 72 hours;
  - (iv) take such other appropriate action as may be necessary.

(3) (a) Where any person refuses a request under subsection (2)(c) or (d), the authorised officer shall refer

the matter to the Police for assistance in order to compel the person with the request made.

(b) Where, after being compelled under paragraph (a), the person still refuses to comply with the request, the person shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees together with imprisonment for a term not exceeding one year.

(4) (a) An authorised officer shall submit a report of his assessment to the supervising officer not later than 15 days after the matter is referred to him.

(b) The supervising officer may, pending the report of an authorised officer, take such measures or provide such assistance as he considers, in the circumstances, necessary for the care and protection of the child.

(5) On receipt of a report from an authorised officer, the supervising officer shall consider the report and shall –

- (a) where possible and in the best interests of the child, take such measures, or provide such assistance to the child and his family, as he considers necessary;
- (b) refer the matter to the Police where he has reasonable grounds to believe that an offence has been, or is being, committed.

(6) Where a matter is referred to the Police under subsection (5)(b), a criminal investigation shall be conducted in the matter.

(7) (a) For the purpose of this section, the Police shall interview a child in the presence, and with the consent, of any of its parent or, in the absence of its parent, any other person having parental authority over the child.

(b) Where there are reasonable grounds to believe that consent obtained under paragraph (a) may increase the threat of harm to the child or another person, the Police shall interview the child in presence of an authorised officer.

(c) An interview may take place at an educational institution, a hospital, a police station or such other place as may be, in the circumstances, suitable for the child.

(d) Where a child is present at an educational institution, the person in charge of the educational institution shall, upon request of the Police or the authorised officer, allow the Police or the authorised officer, as the case may be, to meet with, and interview, the child.

*Amendment agreed to.*

*Clause 33, as amended, ordered to stand part of the Bill.*

*New Clause 34 (Mandatory reporting for child in danger)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move that the new clause 34 be added and that the existing clause 34 be renumbered as clause 35, as per amendment circulated.

### **34. Mandatory reporting for child in danger**

(1) Any person who performs professional or official duties with respect to children, or any other person, has reasonable grounds to believe that a child with whom he is in contact with has been, is being or is likely to be, exposed to harm, shall report the matter to the supervising officer or to the Police.

(2) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

(3) In this section –

“professional or official duties” means duties performed by –

- (a) health care professionals, including medical practitioners, nurses, psychologists, dentists, pharmacists, occupational therapists and administrators of hospital facilities;
  - (b) employees of child care institutions, educational institutions, reform institutions or places of safety;
  - (c) social workers, family counsellors, psychotherapists, probation officers and guardians ad litem; or
  - (d) any other person who, by virtue of his employment, profession or occupation, has a responsibility to discharge a duty of care and support towards a child.
- (F) in the newly renumbered clause 35, in subclause (1)(a), by deleting the words “authorised officer” and replacing them by the words “supervising officer”;
- (iii) in Sub-part II –
- (A) in Section A, by deleting the heading;
  - (B) by deleting clause 35;
  - (C) in Section B, by deleting the heading and replacing it by the following heading –

#### **Section A – Emergency Protection Order**

**The Chairperson:** The question is that new clause 34 be read a second time.

*Question put and agreed to.*

*New Clause 34 ordered to stand part of the Bill.*

*Clause 34 renumbered 35 accordingly.*

*Renumbered Clause 35 (Disclosure of reporter's identity)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move that the clause 35 as renumbered be amended, as per amendment circulated -

"in subclause (1)(a), by deleting the words "authorised officer" and replacing them by the words "supervising officer";

(iii) in Sub-part II –

(A) in Section A, by deleting the heading;

(B) by deleting clause 35;

(C) in Section B, by deleting the heading and replacing it by the following heading –

#### **Section A – Emergency Protection Order**

*Amendment agreed to.*

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

*Existing Clause 35 (Assessment order)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move that clause 35 as appearing in the Bill be deleted.

*Amendment agreed to.*

*Clause 35, as appearing in the Bill, stands deleted.*

*Clause 36 (Emergency protection order)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move that clause 36 be deleted and replaced by the following clause, as per amendment circulated –



### **36. Emergency protection order**

(1) Where, during an assessment or further to an assessment made under section 33, an authorised officer has reasonable grounds to believe that a child needs better care and protection, he may, in such form and manner as may be prescribed, apply to the Protection Division of the Children's Court for an emergency protection order.

(2) Where the Magistrate is satisfied, pursuant to subsection (1), that it is in the best interests of the child to do so, he shall issue an emergency protection order in such form as may be prescribed.

(3) An emergency protection order may provide for –

–

(a) the Police or an authorised officer to –

- (i) summon any person to provide information for the purpose of verifying whether the child has suffered, is suffering or is likely to suffer, harm;
- (ii) enter any premises specified in the order, where necessary by force, and search for the child, provided that the order or a copy thereof is, on request, produced to the owner, occupier or person in charge of the premises;
- (iii) remove the child from any place where the child has suffered, is suffering or is likely to suffer, harm;

- (iv) remove the child from, or return the child to, or prevent the child's removal from, a residential care institution;
  - (v) cause, where necessary for the welfare of the child, the child to be submitted to medical examination or urgent treatment;
  - (vi) direct that adequate Police or medical assistance be provided for the exercise of any power under the order; and
  - (vii) take such other appropriate action as the Police or authorised officer considers to be in the best interests of the child;
- (b) directing the parent of the child, or the unmarried partner of the child's father or mother, to undergo an examination of his physical, mental or emotional condition or any other assessment related to parenting and care of the child;
- (b) directing the parent of the child, or the unmarried partner of the child's father or mother, not to have any direct or indirect contact with the child on his own, unless a specified person or a person of a specified category is present;
- (d) the authorised officer to submit details to the Magistrate on the place of safety;

- (e) the child to be placed with a family member who is willing and able to care for the child;
- (f) the child to be placed in a foster family;
- (g) such other direction, or the imposition of such other condition, as the Magistrate considers to be in the best interests of the child.

(4) Where the parent of a child, or the unmarried partner of the child's father or mother, rejects, ignores or resists a lawful request by an authorised officer made under the emergency protection order, the authorised officer shall refer the matter to the Police for assistance in order to compel the parent to comply with the request made under the emergency protection order.

(5) Where an authorised officer enters any premises pursuant to an emergency protection order, the owner, occupier or person in charge of the premises shall provide all reasonable facilities and assistance to the authorised officer for the discharge of his functions and exercise of his powers under the emergency protection order.

(6) An emergency protection order shall be valid for a period of 21 days but may, on an application made by an authorised officer, be renewed for a further period of 21 days where the Magistrate considers that it is in the best interests of the child to do so.

(7) Notwithstanding any other enactment, no appeal shall lie against the issue of an emergency protection order.

(8) (a) The parent of a child may, not earlier than 72 hours after the issue of an emergency protection order under this section, apply for the discharge of the order.

(b) The Magistrate may discharge the emergency protection order where he is satisfied that it is in the best interests of the child to do so.

**The Chairperson:** The question is that new clause 36 be read a second time.

*Question put and agreed to.*

*New clause 36 ordered to stand part of the Bill.*

*Clause 37 (Placement order)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated -

### **Section B – Placement Order**

“in clause 37 –

(I) by deleting subclause (1) and replacing it by the following subclause–

(1) Where the need for protection is reasonably likely to continue beyond the expiry of an emergency protection order, the authorised officer may, in such form and manner as may be prescribed, apply to the Protection Division of the Children’s Court for a placement order.

(II) by deleting subclause (5) and replacing it by the following subclause –

(5) A Magistrate may, on the application of the authorised officer, the child concerned or the parent of the child, as the case may be, vary or discharge a placement order made under this section where he is satisfied that it is in the best interests of the child to do so.

*Amendment agreed to.*

*Clause 37, as amended, ordered to stand part of the Bill.*

*Clause 38 (Ancillary orders)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated -

### **Section C – Ancillary Orders**

“in clause 38 –

- (I) by deleting the words “an assessment order,”;
- (II) in paragraph (c), by deleting subparagraph (v) and replacing it by the following subparagraph –
  - (v) prohibiting any person to access or contact the child, including the parent of child in case the parent has caused harm to the child.

in Section E, by deleting the heading and replacing it by the following heading –

### **Section D – Long-term Care Order**

*Amendments agreed to.*

*Clause 38, as amended, ordered to stand part of the Bill.*

*Clauses 39 and 40 ordered to stand part of the Bill.*

*Clause 41 (Children with serious behavioural concerns)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated -

### **Section E – Contact Order**

“in Sub-part III –

- (A) in clause 41(2) –

- (I) in paragraph (a), by deleting the word “pertaining” and replacing it by the word ”performing”;
- (II) in paragraph (b), by deleting the words “Probation and After Care Services” and replacing them by the words “Mauritius Probation and Aftercare Services”;

*Amendments agreed to.*

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

*Clause 42 ordered to stand part of the Bill.*

*Clause 43 (Child Mentoring Scheme)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated –

“in clause 43(3), by deleting the words “authorised officer” wherever they appear and replacing them by the words “supervising officer”;

*Amendment agreed to.*

*Clause 43, as amended, ordered to stand part of the Bill.*

*Clause 44 (Child Mentoring Committee)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated –

“in clause 44 –

- (I) in subclause (1) –
  - (AA) by deleting paragraph (a) and replacing it by the following paragraph –
    - (a) the supervising officer, as chairperson;
  - (AB) in paragraph (f), by deleting the words “authorised officer” and replacing them by the words “supervising officer”;

(II) in subclause (2) –

(AA) in paragraphs (a) and (c), by deleting the words “authorised officer” and replacing them by the words “supervising officer”;

(AB) in paragraph (e), by deleting the words “and submit progress report to the authorised officer”;

(AC) in paragraph (g), by deleting the words “as the authorised officer may delegate to it”;

(III) in subclause (4), by deleting the words “authorised officer” wherever they appear and replacing them by the words “supervising officer”;

*Amendments agreed to.*

*Clause 44, as amended, ordered to stand part of the Bill.*

*Clause 45 (Child mentor)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated –

“in clause 45(2), by deleting the words “authorised officer” wherever they appear and replacing them by the words “supervising officer”;

*Amendment agreed to.*

*Clause 45, as amended, ordered to stand part of the Bill.*

*Clause 46 (Mentoring order)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated –

“in clause 46, in subclauses (1), (2), (3), (7), (8) and (9), by deleting the words “authorised officer” and replacing them by the words “supervising officer”;

*Amendments agreed to.*

*Clause 46, as amended, ordered to stand part of the Bill.*

*Clause 47 ordered to stand part of the Bill.*

*Clause 48 (Offence by child mentor)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the amendment, as per amendment circulated –

“in clause 48(2), by deleting the words “authorised officer” and replacing them by the words “supervising officer”;

*Amendment agreed to.*

*Clause 48, as amended, ordered to stand part of the Bill.*

*Clause 49 ordered to stand part of the Bill.*

*Clause 50 (Procedure regarding child under 14 suspected of having committed an offence)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated –

“in clause 50(1) –

- “(i) by deleting the word “Ministry” and replacing it by the words “Ministry responsible for the subject of probation and aftercare services”;
- (ii) in paragraph (a), by deleting the word “place” and replacing it by the words “if required, place”;
- (iii) by deleting paragraph (b) and replacing it by the following paragraph, the word “and” being added at the end of paragraph (a) –
  - (b) arrange for an assessment by a probation officer and a psychologist of that Ministry for necessary support to the child and his parent.



(iv) by deleting paragraph (c);”

*Amendments agreed to.*

*Clause 50, as amended, ordered to stand part of the Bill.*

*Clauses 51 to 53 ordered to stand part of the Bill.*

*Clause 54 (Persons to attend assessment)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated –

“in clause 54(2), by deleting the words “may allow” and replacing them by the words “may co-opt”;

*Amendment agreed to.*

*Clause 54, as amended, ordered to stand part of the Bill.*

*Clause 55 (Juvenile not to be prosecuted or criminal proceedings against juvenile to be discontinued)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move to delete subclause (4) in clause 55, as per amendment circulated.

*Amendment agreed to.*

*Clause 55, as amended, ordered to stand part of the Bill.*

*Clauses 56 to 64 ordered to stand part of the Bill.*

*Clause 65 (Recording of statements from child witness or child victim)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendment, as per amendment circulated –

“in clause 65, by adding the following new subsection –

(3) The responsibility for the recording of a statement shall lie with the Police in the locality where the child is found, even though the child is ordinarily resident in another locality.”

*Amendment agreed to.*

*Clause 65, as amended, ordered to stand part of the Bill.*

*Clause 66 (Appointment of Guardian Ad Litem)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated –

“in clause 66 –

- (i) in subclause (1)(a), by deleting the words “child victim” and “victim’s parent” and replacing them by the words “child” and “parent”, respectively;
- (ii) by inserting, after subsection (2), the following new subsection, existing subsection (3) being renumbered as subsection (4) –

(3) Notwithstanding subsection (1), the Protection Division of the Children’s Court may, on its own motion, appoint a guardian ad litem for the child where it is of the opinion that there are special circumstances which necessitate such an appointment and which will benefit the child.”

*Amendments agreed to.*

*Clause 66, as amended, ordered to stand part of the Bill.*

*Clauses 67 to 72 ordered to stand part of the Bill.*

*Clause 73 (Consequential amendments)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated.

“In clause 73 –

- (i) in subclause (2), by inserting, after paragraph (d), the following new paragraph, existing paragraphs (e) to (r) being relettered as paragraphs (f) to (s) –

- (e) in article 371, in alinéa 1, by deleting the words  
“ou son émancipation par mariage”;
- (ii) in subclause (5), in paragraph (d), in the proposed new section 13A –
  - (A) in subsection (1)(b), by deleting the words “, including HIV and AIDS”;
  - (B) by deleting subsection (2);
- (iii) by inserting, after subclause (7), the following new subclause, existing subclauses (8) to (13) being renumbered as subclauses (9) to (14) –
  - (8) The Criminal Code is amended, in section 249(3), by deleting the words “age of 12” and replacing them by the words “age of 16”.
- (iv) in the newly renumbered subclause (9), in paragraph (e), in the new section 132B –
  - (A) in subsection (1)(b), by deleting the words “, including HIV and AIDS”;
  - (B) by deleting subsection (2);”

*Amendments agreed to.*

*Clause 73, as amended, ordered to stand part of the Bill.*

*Clause 74 (Savings and transitional provisions)*

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

**Mrs Koonjoo-Shah:** Mr Chairperson, I move for the following amendments, as per amendments circulated.

“In clause 74, by inserting, after subclause (3), the following new subclause, the existing subclause (4) being renumbered as subclause (5) –

(4) Any regulations made under the repealed Child Protection Act and the repealed Juvenile Offenders Act and which are still valid on the commencement of this Act shall, on the commencement of this Act, be deemed to have been made under this Act and shall be dealt with in accordance with this Act.”

*Amendments agreed to.*

*Clause 74, as amended, ordered to stand part of the Bill.*

*Clause 75 ordered to stand part of the Bill.*

*The title and enacting clause were agreed to.*

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

*The following Bills were considered and agreed to –*

- (i) The Children's Court Bill (No. XVIII of 2020).*
- (ii) The Child Sex Offender Register Bill (No. XIX of 2020).*

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

### *Third Reading*

*On Motion made and seconded, the following Bills were read the third time and passed -*

- (i) The Children's Bill (No. XVII of 2020)*
- (ii) The Children's Court Bill (No. XVIII of 2020)*
- (iii) The Child Sex Offender Register Bill (No. XIX of 2020)*

### *Second Reading*

## **THE SUPPLEMENTARY APPROPRIATION (2018-2019) BILL**

### **(NO. XII of 2020)**

*Order for Second Reading read.*

**The Minister of Finance, Economic Planning and Development (Dr. R. Padayachy):** Mr Speaker Sir, I move that the Supplementary Appropriation (2018-2019) Bill (No. XII of 2020) be read a second time.

The Bill makes provision for a supplementary appropriation of one million four hundred and thirty-five thousand rupees (Rs1,435,000) in respect of services of Government for the financial year 2018-2019.

The Supplementary Appropriation Bill is being presented by virtue of section 105 (3) of the Constitution.

This section of the Constitution provides that when any Vote requires additional funds over and above what has already been appropriated, these additional funds must be appropriated by the National Assembly through a Supplementary Appropriation Bill.

The Appropriation (2018-2019) Act has made provision for Government expenditure of a total sum not exceeding Rs121.1 billion for financial year 2018-2019 under 70 different Votes of Expenditure.

The sum actually spent for the financial year 2018-2019 amounted to Rs110.1 billion.

It is some Rs11 billion below the appropriated amount.

However, actual expenditure under one Vote item, namely Vote 24-1: Ministry of Financial Services and Good Governance, exceeded its initial appropriation by a sum of one million four hundred and thirty-five thousand rupees (Rs1.435 m.).

This was mainly to cater for some unforeseen expenses and to enable the Integrity Reporting Service Agency to meet its operating expenses up to June 2019.

This excess amount, which was not initially appropriated was met through reallocation of funds from Vote Contingencies and Reserves.

The Vote of Expenditure and the sum requiring supplementary appropriation are listed in the Schedule to the Bill.

On the other hand, the specific details on the concerned items of expenditure are set out in the Estimates of Supplementary Expenditure (ESE) that have already been laid before the National Assembly.

Mr Speaker, Sir, the House may note that the actual budget deficit for Financial Year 2018-2019 was on target, that is, 3.2% of GDP as budgeted even after accounting for this supplementary expenditure.

With these remarks, Mr Speaker, Sir, I now commend the Bill to the House.

**The Prime Minister seconded.**

(4.16 p.m.)

**The Leader of the Opposition (Dr. A. Boolell):** Mr Speaker, Sir, the sum may be insignificant, but the comments have to be very significant in the light of what we are trying to do to address dismal deficiencies in effectiveness and technical issues relating to the Financial Action Task Force. I am not going to go into chronological order to highlight what

has been spelt out in the report and what was stated by the IMF, but the fact remains that we have to address these issues and I am glad to see that some of the officers had to work after office hours in connection with the Financial Action Task Force.

Now, there is one specific matter that I would like to raise and I hope the Minister will give us a specific reply. I hope that we stand a good chance that the EU could upgrade Mauritius from the black list to a grey list in the short time in line with the new EU methodology, which seeks to emulate the Financial Action Task Force to list. However, we all fervently hope that the absolute lack of effectiveness and credibility of ICAC will not play against us. So, I would like to hear from the Minister, in the light of the overtime done by the officers who are totally committed, to ensure that we address these issues in a forceful and meaningful manner, and I would like to know where matters stand in respect of moving Mauritius from the black list to a grey list or better still if we can be removed from the black list totally. So, I would like to hear that from the Minister.

**Mr Speaker:** Hon. Uteem!

(4.18 p.m.)

**Mr R. Uteem (Second Member for Port Louis South & Port Louis Central):** Mr Speaker, Sir, this Bill came for First Reading on 21 July 2020, five months ago. It relates to expenditure already incurred in 2018/2019, almost two years ago. There is absolutely no urgency about this Bill and it is an abuse of Standing Order 65 for the hon. Prime Minister to sign a Certificate of Urgency for this Bill to come five months after it was read the first time. The only reason why this Bill is before this House today under a Certificate of Urgency is because Standing Order 24 (3)(c) provides that -

“Notice of questions, including private notice questions, shall not be entertained on a day fixed for the consideration of an Appropriation Bill or a Supplementary Appropriation Bill by the Committee of Supply.”

So, the only reason for this Bill with a Certificate of Urgency is to prevent us from asking PQs and to prevent the Leader of the Opposition from asking a PNQ today. Another Supplementary Appropriation Bill relating to 2020/2021 was read a first time on 17 November 2020. So, why is that Appropriation Bill also not before the House today? Is that because the Bill is being kept in abeyance until a time when the Government does not want to answer PQs and PNQs that would embarrass the Government and its Ministers?

Turning to the Estimates, Mr Speaker Sir, at item 21.1.1.001, Overtime, we are being asked to vote additional funds to pay overtime to officers who have had to work after office hours in connection with the Financial Action Task Force meeting. May I remind the House that the Financial Action Task Force (FATF) has, on 21 February 2020, placed Mauritius on the list of Jurisdictions under increased Monitoring? This is the list usually referred to as the grey list. According to the website of FATF, a country is placed on the grey list where there are strategic deficiencies in their regime to counter money-laundering, terrorist financing and proliferation financing. We are being asked to pay overtime for people who attended this FATF meeting when we lamentably failed to demonstrate to FATF that we were compliant with its recommendation to combat money-laundering and terrorist financing. Yes, Mr Speaker, Sir, this Government has failed us, this Government has failed the entire global business sector.

May I remind the House that before we were placed on the grey list last year on 13 September 2019, the then Minister of Financial Services and Good Governance made a statement in this National Assembly and stated, and I quote -

“I wish to highlight that the FATF, the UK, the USA, ESAAMLG Secretariat have unanimously recognised and congratulated Mauritius for its commitment at the highest level to resolve its shortcomings and a significant progress made in a short period of time.”

Self-congratulating himself! Apparently, FATF congratulated us, and then, placed us on the grey list. Who are we kidding? And we saw the same sense of complacency only a few weeks ago. On 01 October 2020, the Ministry of Financial Services and Good Governance issued a first communiqué and stated, and I quote -

“During the virtual meeting the joint group underlined the effort and steps undertaken by Mauritius, in particular under difficult circumstances caused by COVID-19 pandemic and has commended” - again the words, has commended - Mauritius on progress made as at that date.”

So, according to this communiqué of 01 October, Mauritius has been commended for significant progress and as if this was not good enough, the same Ministry of Financial Services and Good Governance, on 25 October 2020, twenty-five days later, issued another communiqué and states, and I read -

“During the Virtual Plenary Session held between 21 and 23 October 2020, Mauritius was commended for the tremendous progress - tremendous progress! - made with respect to putting its jurisdiction at par with best practice norms for the fight against money-laundering, terrorist financing and proliferation financing.”

That was 25 October 2020. So, according to this communiqué, according to the Ministry of Financial Services, FATF apparently commended us for our tremendous progress. The Ministry was self-congratulating itself, a job well done, but after this tremendous progress one would have expected that Mauritius will be removed from the FATF list, but no, we are still very much on the FATF grey list. In fact, on 23 October 2020, only two days before the Ministry of Financial Services issued its self-congratulating statement, FATF also published its communiqué on its website, Jurisdictions under increased Monitoring. What did it say about Mauritius, did it say that Mauritius did a tremendous progress? No, not at all! It stated, and I quote -

“Mauritius should continue to work on implementing its action plan to address its strategic deficiencies.”

So, in the eyes of the FATF, we still have strategic deficiencies. There is no tremendous commendation and the FATF identified again five areas of deficiencies. We are still on the grey list of the FATF; we are on the European Commission blacklist of high-risk third countries with strategic deficiencies in their regime regarding anti-money laundering and counter terrorist financing. The blacklist has come into force on 01 October 2020. And while this Government is self-congratulating itself on its tremendous progress, other countries were able to convince FATF to remove them from the grey list. Indeed, one can read from the website of the FATF, I quote -

“FATF congratulated Iceland and Mongolia for the significant progress they made in addressing the strategic AML/CFT deficiencies identified earlier by FATF and included in their respective action plan. Iceland and Mongolia will no longer be subject to FATF increased monitoring process.”

So, Iceland and Mongolia which were on the FATF grey list in February 2020, just like Mauritius, have been able to convince the FATF that they have made progress, not tremendous progress, but sufficient progress to be removed from the grey list. And we were supposed to have made tremendous progress, and we are still on the grey list. Is it because of



the remark made by the FATF in its communiqué when referring to COVID-19 pandemic? This is what the FATF said –

“Meanwhile, criminals continue to exploit the situation, including through fraud schemes linked to medical and protective equipment.”

Does that sound familiar? Fraud scheme linked to medical and protective equipment during confinement? Was FATF hinting at the scandal of billions of rupees worth contracts for the supply of masks and medical equipment given to *petits copains/petites copines* without tender during confinement? And we just heard last week, the hon. Minister of Health confirmed that the ventilators that have been commissioned are still not in working conditions. Do we seriously think that Mauritius will be taken out of FATF grey list when there is so much opacity around the award of contracts during the COVID-19 pandemic? Do we seriously think that Mauritius will be taken out of the FATF grey list when contracts were awarded to enterprises with big question marks about their source of funds? Do we seriously think Mauritius will be taken out of FATF grey list, when contracts were awarded to relatives of a person in charge of the State Trading Corporation who was involved in the award of these contracts? If we are still on the FATF grey list, it is because Mauritius has up to now failed to demonstrate to the FATF that the law enforcement has capacity to conduct money laundering investigation, including parallel financial investigation and complex cases. I’m not saying so. These were the words used by the FATF when confirming our position on the grey list; our law enforcement inability to conduct money laundering investigation.

FATF is still criticising our law enforcement agencies. FATF is still criticising ICAC, and nothing will change as long as we have the same people at the head of ICAC. And it serves absolutely no purpose having good laws; it serves absolutely no purpose having good officers who will work overtime if we don’t get rid of the rot at the head. We will still be criticised.

Mr Speaker, Sir, the Estimates also want us to approve Rs435,000 with respect to the Office of the Ombudsperson for Financial Services and the Anti-Money Laundering/Combating the Financing of Terrorism. We are required to sanction about an additional Rs500,000 to that Ombudsperson for Financial Services. So, maybe the hon. Minister will care to give us the name of the current Ombudsperson for Financial Services because my understanding is that since Mr Kona has been appointed Deputy Governor of the Central Bank, this position has not been filled.

Indeed, answering to a PQ which I asked him on 28 July 2020, more than five months ago, the hon. Minister of Financial Services stated that the post of Ombudsperson for Financial Services was currently vacant, but action is initiated for its filling. We are talking about a very important post. So, five months later, we have to know. Has this post being filled? Is it still vacant? Who is the incumbent of that post? Because today, a customer who has complaints about banks, about insurance companies and other financial institutions, must turn to this Ombudsperson for Financial Services for redress. And as the hon. Minister of Financial Services reminded us on 28 July, since the Office of the Ombudsperson for Financial Services became operational on 01 March 2019, around 1,158 complaints have been received, out of which 977 have been investigated. So, we are talking about an important institution dealing with complaints against financial institutions, and I really don't think, reading from the law, how this Office can operate if we don't have an Ombudsperson for Financial Services because it is the Ombudsperson who takes the decision, who investigates and takes actions.

There are other things I would like to add on this score, Mr Speaker, Sir, is that according to section 17 of the Ombudsperson for Financial Services Act 2018, and I quote –

- “(1) The Ombudsperson shall, not later than 3 months from the end of every financial year, cause to be published an annual report on his activities (...).
- (2) The Ombudsperson then forward the copy of its annual report to the Minister, and
- (3) the Minister shall, at the earliest available opportunity, lay a copy of the annual report before the Assembly.”

Now, I have just checked with the Librarian of the National Assembly and the annual report has still not being laid before the Assembly, in contravention of section 17 of the Act.

So, I would make an appeal to the hon. Minister to see to it that the Ombudsperson for Financial Services is appointed; he is supposed to be appointed by the President upon the advice of the Prime Minister.

The final item I would like to comment on, Mr Speaker, Sir, is in relation to item 26313 where we are asked to approve an additional provision required for the Integrity Reporting Services Agency to meet its operating expenses up to June 2019. We are called upon to approve an additional Rs7.5 m. on top of the budgeted Rs30 m.

As a reminder, what does this Agency do? The Agency is supposed to investigate cases of unexplained wealth and then it submits its report to the Integrity Reporting Board and the Integrity Reporting Board then has to determine whether an Unexplained Wealth Order should be sought from the Court.

Now, there have been a number of PQs on this Integrity Reporting Services Agency since it was set up in 2015 and became operational in May 2016. And I asked several questions on it, on the pay package of the various staff members. And we have the right to ask the question if we are putting so much money into that Agency and Board: how effective is the Agency and the Board? When we look at the Annual Report of the Board, we find out that the bulk of the expense relates to staff cost of the Agency, around Rs14 m., and fees payable to the Chairman of the Integrity Reporting Board and his two Assessors, around Rs11 m.

Now, according to the third Annual Report of the Agency, which the Board submitted to the President of the Republic on 01 September 2020, for the period January 2016 to December 2019, the Agency has investigated 106 cases, out of which 59 were closed and 47 are ongoing. But out of these 106 cases having been investigated by the Agency, do you know, after these four years, how many Unexplained Wealth Orders have been applied for? Only three! Two of these applications are still before the Court, while the Court granted an Unexplained Wealth Order in the third case. Only three cases lodged! Only one Unexplained Wealth Order secured after four years of operation. Why? We have to look at the Agency itself, because from Day 1, from the first Annual Report which they submitted, they have asked for more powers. They have all asked for more powers because the Agency, as the law currently stands, cannot investigate cases of unexplained wealth seven years before commencement of the Act.

So, the Agency does not have power to investigate cases of property, houses acquired before December 2008. Now, you will ask why December 2008. I leave it to your imagination who acquired property before December 2008; how it was paid, who paid for it, who received the money for it. So, anyway, any property acquired before December 2008 cannot be investigated by the Agency.

The second reason advanced by the Agency for their limited success is their inability to investigate unexplained wealth of less than Rs10 m. As if it is normal, you can steal money

up to 10 m. without any question. It is only if you have more than Rs10 m. unexplained wealth that is when the Agency can investigate.

Now, the law was amended earlier this year in July 2020 to allow the Agency to investigate unexplained wealth of at least Rs2.5 m. in cash which had been seized by an enforcement authority during a criminal investigation. But you would agree with me that this is hardly satisfactory because most of the unexplained wealth are used to acquire immovable property, are used to acquire fleets of cars and other assets. It is very rare that you will have people who have been guilty of illicit funding, of corruption keep Rs2.5 m. in cash at their home. It is all well to tell us to vote additional funds to give to this Agency but this Agency, for it to really work, for it to really achieve the purpose of which it was set up needs to have more powers and I would urge the Government to give powers to the Agency to investigate unexplained wealth without limit on the amount and without any limit in time. So, this was what I wanted to say on this Bill.

Thank you, Mr Speaker, Sir.

(4.37 p.m.)

**The Minister of Financial Services and Good Governance (Mr M. Seeruttun):** Mr Speaker, Sir, thank you for giving me the opportunity to intervene on the Supplementary Appropriation Bill 2018-2019.

Mr Speaker, Sir, as the House is aware, the Supplementary Appropriation Bill is to provide for the supplementary appropriation by votes of expenditure in respect of Government services for the Financial Year 2018-2019. The consideration, today, in front of the House, is the appropriation of a total sum not exceeding Rs1,435,000 for the vote of expenditure 24-1, that is, of my Ministry, both recurrent and capital.

Mr Speaker, Sir, a sum of Rs245,600,000 was voted through the Appropriation (2018-2019) Act No. 07 of 2018 in respect of Vote 24-1, Ministry of Financial Services and Good Governance for the Financial Year 2018-2019. This amount included a sum of Rs238,600,000 for recurrent expenditure and Rs7 m. for capital expenditure.

Mr Speaker, Sir, my Ministry in fact spent a total amount of Rs247,035,000 for the year 2018-2019, that is Rs1,435,000 in excess of the voted provision for that financial year. However, I wish at the very outset to point out that for some items of expenditure under my Ministry's Vote, savings were made. Accordingly, in the first instance, as is the practice and in line with financial procedures, *virements* were made from the items of expenditure under

my Ministry's vote where savings were envisaged to other items where additional funds were required.

Mr Speaker, Sir, during the Financial Year 2018-2019, overall savings to the tune of Rs9,624,000 were made on some items of expenditure. These were, namely, items relating to Basic Salary, Extra-Assistance, Travelling and Transport and contribution to the National Savings Fund which all related to staff matters. In fact, a recruitment exercise to fill some vacancies in the Ministry started in Financial Year 2018/2019. However, the posts were filled only during Financial Year 2019/2020. Hence, savings were made in these items of expenditure in Financial Year 2018/2019.

Moreover, savings of Rs687,000 were also made on electricity charges and fuel. Some Rs1 m. were further saved on the items relating to Fees, to Consultants and Conferences and Seminars. In fact, the services of some consultants which were planned to be enlisted for the implementation of the Recommended Actions in the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) Mutual Evaluation Report, could not be obtained in the Financial Year 2018/2019.

Mr Speaker, Sir, I now turn on to the items of expenditure where additional funds were required during the Financial Year 2018/2019. In fact, a total amount of Rs11,059,000, comprising of Rs11,022,000 for some recurrent items of expenditure and Rs57,000 for capital expenditure, were required. I will now give a brief detail on these items.

Mr Speaker, Sir, I wish to highlight that the excess expenditure incurred over and above the initial provision for the Financial Year 2018-2019 was mainly due to the fact that the Integrity Reporting Services Agency (IRSA), an Extra Budgetary Unit under my Ministry required additional funds to the tune of Rs7.5 m. to meet its operational costs.

The agency was allocated an initial amount of only Rs30 m. for Financial Year 2018-2019. However, during the course of that Financial Year, it required additional funds to meet its obligations in terms of payment of legal fees for cases it had in Court and accommodation costs as well as additional fees paid to the Chairman of the IRSA for his physical attendance in Mauritius during that year.

Mr Speaker, Sir, for recall, the Good Governance and Integrity Reporting Act (GGIRA) was enacted in 2015 and the Act established the Integrity Reporting Services Agency (IRSA). The main purpose of creating the Agency was to promote transparency, good governance and integrity in Mauritius and making it a mandatory duty for agencies, body corporates and

statutory corporations to report suspicious cases of unexplained wealth to the IRSA and assist it in its enquiries.

Mr Speaker, Sir, for the Financial Year 2018-2019, the IRSA investigated into 58 cases of unexplained wealth. Of these, it obtained an Unexplained Wealth Order for an amount of approximately Rs11 m. The IRSA has also applied for an Unexplained Wealth Order for two other cases. And since its inception from the year 2016 to date, the IRSA has investigated into 154 cases.

Mr Speaker, Sir, other specific items in this Bill whereby additional funds were required are –

- Rs75,000 was required for payment of salary compensation of Rs400- effective as from 01 January 2019, which was of course not known at the time when the estimates were being presented;
- Rs27,000 was required to meet car allowance payable to eligible officers;
- Rs470,000 was required to meet overtime cost;
- Rs373,000 was required for the payment of the increase in rental payable, following the review of the rates for the rental;
- Rs565,000 was required to meet the costs of purchasing equipment and furniture for additional staff;
- Rs471,000 was required to meet unexpected expenditures such as repairs of the heavy-duty photocopy machine and maintenance of Government vehicles;
- Rs445,000 was required for payment of Public Advertisement issued by the Office of the Ombudsperson for Financial Services and the Anti-Money Laundering/Combatting the Financing of Terrorism;
- Rs221,000 were required for refurbishment and petty expenses;
- Rs57,000 were required for the payment of partitioning works carried out to accommodate additional staff that were planned for recruitment, and
- Rs855,000 were required for the promotion of the Financial Services sector. Out of which, Rs750,000 were paid to the Mauritius Broadcasting Corporation to meet our obligations under the Memorandum of Understanding signed with the Corporation for the conduct of sensitisation

programmes in that sector over a period of one year.

Mr Speaker, Sir, to reply to the hon. Leader of the Opposition with regard to the listing on the FATF and also to the comments made by hon. Uteem, you know, when we were put on the list of jurisdiction under increased monitoring by the FATF, we were given a two-year period to address the deficiencies noted. It is good to mention that the deficiencies were with regard to effectiveness. Out of the 58 recommendations that are set by the FATF, we were noted as being complied on 53 of them. The remaining 5 where we were noted to be deficient, where we need to address those deficiencies, we were given a two-year time period to address those deficiencies. But we took the challenge to address those deficiencies at the earliest because we knew how important this sector is to the economy, and we took a high-level political commitment to address and to implement the action plan set by the FATF.

In fact, we did everything to address those deficiencies at the earliest. We were meant to submit a Progress Report in March, which we did, and which was supposed to be reviewed by the FATF, but due to COVID, that was not reviewed. There was a review that took place in September and we were meant to submit our Progress Report in July, which we did, and that report was finalised in August, which was then reviewed by the assessors, and we had a face-to-face meeting in early September. And this is where the two Co-Chairs of the Joint Group made those comments which were mentioned in the communiqué which was issued by my Ministry, which hon. Uteem seems to think that it is something that was never mentioned or was never spelt out by the assessors. I can refer him if he wants to; I have the audio of that face-to-face meeting where both Co-Chairs commended the effort made by Mauritius within that span of time to show our commitment in addressing those deficiencies. And I must say one of the Co-Chairs also added, in her concluding remarks, that Mauritius was months away to be exiting the FATF list, and we were asked to continue on that track to be able to exit the list.

Another Report was submitted on 27 November, which has been already submitted to the assessors of the Joint Group. We are expecting their comments by Friday, the normal process of the review, and we are going to reply to their comments; whether they need clarification or any additional information. That is going to be submitted to the FATF by 04 January and a face-to-face meeting is meant to be held in the third week of January. Then, the Plenary will be held in February. It is also good to mention that following discussions we had with the EU Commissioners, they have agreed that once we are out of the FATF list, we will be out of the EU list within a period of six weeks.

At the technical level, we have been doing whatever possible to do to address those deficiencies. Of course, the decision on whether we have made enough progress with regard to effectiveness rests with those assessors. But I can reassure the House and the industry that the Ministry, together with all the other agencies and institutions involved in this particular exercise, we are all doing the utmost best to get Mauritius out of that list. All those people are committed, Mr Speaker, Sir, but when we listen to comments made by hon. Uteem, sometimes you wonder whether you need opponents from overseas to tarnish our jurisdiction; the more so that he is someone from that sector. When we talk outside, he has got very different views of what we are doing, but, unfortunately, when he is in the House and he intervenes on this particular subject, he has got a very complete different approach on that particular issue. It is unfortunate, but probably that is the way some people do politics. Anyway, Mr Speaker, Sir, with regard to that particular subject matter, we keep our hope high to be able to exit this FATF list and EU list at the earliest possible time.

With regard to the Office of the Ombudsperson, true it is that the former Ombudsperson for Financial Services was called upon to take other responsibility and we have already embarked on the process of appointing another one. Of course, it is going to happen, hopefully very soon. So, we will keep hon. Uteem apprised of the new person who is going to be appointed very soon.

Other than that, Mr Speaker, Sir, I think that those are the major points that I had to comment upon. He also talked about the certificate of urgency of taking this item on the agenda of this session today. He has been in this House long enough to know that whenever such an item is on the agenda, there is no PQ and no PNQ. There is no point of claiming that we have done this to avoid PQs or PNQs. I mean, he knows it well, but, again, he is trying to do politics on it. But it is unfortunate; he has been here long enough to know that that forms part of the process.

Anyway Mr Speaker, Sir, to conclude, I would like to say that my Ministry required this supplementary amount of Rs1,435,000 for the Financial Year 2018-2019 for its smooth functioning.

With this note, I thank you for your attention.

**Mr Speaker:** I will now suspend the Sitting for 30 minutes.

*At 4.55 p.m., the sitting was suspended.*

*On resuming at 5.43 p.m. with Mr Speaker in the Chair.*



**Mr Speaker:** Please be seated! Hon. Minister of Finance, Economic Planning and Development!

**The Minister of Finance, Economic Planning and Development (Dr. R. Padayachy):** M. le président, permettez-moi, tout d'abord, de remercier les honorables parlementaires qui sont intervenus sur ce projet de loi.

Comme je l'ai mentionné dans mon discours, les dépenses totales pour l'exercice 2018-2019 sont inférieures au montant total alloué par l'Assemblée nationale.

Cela étant dit, un seul poste a dépassé son crédit initial, à savoir le crédit 24-1 du Ministère des services financiers et de la bonne gouvernance. En conséquence, conformément aux dispositions de la Constitution, ce dépassement de dépenses doit être approuvé par l'Assemblée nationale par le biais d'un *Supplementary Appropriation Bill*.

Mon collègue ministre, l'honorable Mahen Seeruttun, a bien expliqué que ce montant de dépenses excédentaires était dû à des circonstances imprévues en rapport avec l'*Integrity Reporting Service Agency*. Par ailleurs, permettez-moi de rappeler les provisions qui régissent le règlement intérieur de cette auguste Assemblée.

En vertu du Standing Order 24-3, lors de la présentation d'un *Supplementary Appropriation Bill*, il n'y a ni de PNQ ni de PQ. C'est le règlement qui veut cela, et quiconque ne pourrait aller à l'encontre de cette procédure.

Je rappelle également que les comptes du Gouvernement pour l'exercice budgétaire 2018-2019 ont été audités, envoyés au Greffier de l'Assemblée nationale et, comme la procédure le veut, déposés à l'Assemblée nationale. L'ensemble du processus a été complété durant l'année 2020.

M. le président, je tiens aussi à souligner un élément par rapport aux commentaires de l'honorable Uteem concernant le temps de la procédure. Je tiens à souligner qu'on n'a pas fait de commentaires par rapport aux 220 millions qui ont été découvertes dans le coffre-fort d'un ancien Premier ministre et pour cela, on n'a pas hésité, certains n'ont pas hésité à cautionner ce montant en allant s'allier avec cette personne et en faisant des conférences semaine après semaine et pour cela je tiens à le rappeler qu'il se regarde et qu'il regarde bien ce qu'il est en train de faire.

Et là, je reviens, M. le président, pour terminer ce *hearsay* et je dis, à ce titre, nous soumettons aujourd'hui ce budget supplémentaire au vote de l'Assemblée.

Sur ces considérations, je recommande maintenant ce projet de loi à l'Assemblée nationale. Merci.

*Question put and agreed to*

*Bill read a second time and committed.*

## **COMMITTEE OF SUPPLY**

*(Mr Speaker in the Chair)*

### **THE ESTIMATES OF SUPPLEMENTARY EXPENDITURE**

**(2018-2019) OF 2020**

**&**

### **THE SUPPLEMENTARY APPROPRIATION (2018-2019) BILL**

**(NO. XII OF 2020)**

*Vote 24-1 Ministry of Financial Services and Good Governance was called.*

**The Chairperson:** Hon. Uteem!

**Mr Uteem:** In relation to item 2111.100 - *Overtime*, may I have a breakdown of the officers and their seniority who participated in these meetings?

**The Minister of Financial Services and Good Governance (Mr M. Seeruttun):** Mr Chairperson, Sir, with regard to overtime, I am informed that those who are eligible for overtime are those attendants and auxiliary staff. No high calibre staff - if that is what you are looking for; I mean these are lower grade staff who are entitled to overtime when they stay beyond the normal working hours.

*Vote 24-1 Ministry of Financial Services and Good Governance (Rs 1,435,000) was, on question put, agreed to.*

*The Estimates of Supplementary Expenditure (2018-2019) of 2020 and the Supplementary Appropriation (2018-2019) Bill (No. XII of 2020) were agreed to.*

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

**Mr Speaker:** The Deputy Prime Minister!

(5.51 p.m.)

*Second Reading*

## THE LANDLORD AND TENANT (AMENDMENT) BILL

(No. XX of 2020)

*Order for Second Reading read.*

**The Deputy Prime Minister:** Mr Speaker, Sir, I am on behalf of Government inviting the House to amend, once again, the Landlord and Tenant Act 1999 and the thought of setting the context of today's amendment, I deem it apposite to recall the relevant historical background.

A first Landlord and Tenant Act was introduced in 1960 after the country was devastated by two major cyclones, Carol and Alix, and remained mired in poverty with a housing stock of poor quality and limited home ownership.

The objective of the 1960 legislation was to provide tenants of both residential and business premises adequate protection, both in terms of rent and security of tenure. Nearly 40 years later, the 1960 Act was repealed and replaced by the Landlord and Tenant Act 1999. The then Labour Party Government, taking into account the transformation of the country in the 1980s and 1990s but also the fact that, I quote –

“A substantial proportion of commercial and industrial units remained accommodated in rental premises”

sought to introduce a more liberal approach, premised on four principles in the words of then Minister Faugoo –

- (a) security of tenancy;
- (b) level of rent fare to both landlord and tenant;
- (c) removal of undue encumbrances to repossession of premises to promote development, and
- (d) promotion of construction of buildings, both residential and commercial.

Rent control in respect of residential rented premises was maintained, but the major changes brought in 1999 included, *inter alia* –

- (a) subjecting all commercial premises, whether pre-existing or new, to rent increase as provided for contractually;
- (b) the setting up of a Fair Rent Tribunal which came into play as and when parties could not agree as to rent payable to determine a fair rent for business

premises rented after the coming into operation of the 1999 Act (what Minister Faugoo called a safety valve), and

- (c) the possibility of repossession ordered by a Court in respect of premises required for reconstruction or improvement against compensation and repossession of residential premises also in specified circumstances.

The MMM Opposition did not participate in the debate in 1999.

Mr Speaker, Sir, the Landlord and Tenant Act of 1999, unfortunately, did not meet its stated objectives in terms of property development and redevelopment as well as determination of a fair rent. As a result, the Act was amended in 2005 by the MSM-MMM Government under the Prime Ministership of hon. Paul Bérenger with hon. Lesjongard as Minister of Housing and provided, for instance, that the Act would not apply to new business premises which included office space.

Existing business lettings on or before 01 July 2025 would be granted a moratorium of seven years, after which these premises would no longer be governed by the Act. So, liberalisation taking effect immediately for business premises with office space, and for the others, as from 2012, 2005, plus a cushioning period of seven years, and during that time, the rental of such business premises could be progressively increased every year by 15% of the difference between the market and the actual rent. And, it also provided that the Fair Rent Tribunal would be given the jurisdiction to determine the market rate of business premises let on or before 01 July 2005. So, for premises, before 2005, the Tribunal looked at, determined the fair rent, and for those after 2005, for seven years, the market rate. I am sorry to say, but hon. Dr. Boolell from the Opposition benches characteristically opposed each and every proposal of the MSM-MMM Government of 2005, with no constructive counter-proposal whatsoever as per Hansard of 01 March 2005.

The next amendments to the Landlord and Tenant Act were brought by the Labour Government of 2009 in the wake of the global recession of 2008-2009 to provide for a yearly increase in rental of business premises of 10% instead of 15%. Of course, I am referring to the difference between the market rate and the actual rent being paid. So, it brought down the yearly increase from 15% to 10% and moreover, the moratorium of 30 June 2012, due to expire on 30 June 2012, the so-called cushioning period, was extended to 31 December 2017, after which liberalisation of business lettings would kick in. hon. Paul Bérenger, then Leader of the Opposition, agreed to the changes to the law.

In December 2017, the Act was amended for the third time on that occasion by the MSM/ML Government with a view to extending the moratorium on liberalisation of rent in respect of premises let in or before July 2005 for a further period of three years. So, there was a moratorium for 2005 to 2012, then extended to 2017 and then extended again to 2020. So, we are talking of a moratorium in effect of 15 years. The amendment moved by my immediate predecessor, then Minister Jhugroo, did not elicit any objection in the House from the Opposition.

The conclusions one would be entitled to draw from this brief recapitulation of Parliamentary history in respect of Landlord and Tenant Legislation is that apart from the demagogic outburst of hon. Dr. Boolell in 2005, there has been a broad consensus between Government and Opposition over the last 20 years as to the need to regularly reconsider and redefine the delicate equilibrium between the need to protect small and vulnerable tenants of rented premises in view of the economic trends on the one hand, and on the other hand, the importance of stimulating property development and construction for rental purposes. We all agree as to the virtues of a dynamic, albeit properly regulated rental market, but only as long as small businesses are afforded some protection from the vagaries of economic and social history as it unfolds.

Mr Speaker, Sir, the present context is defined by the unprecedented, unforeseeable and devastating COVID-19 pandemic of the year 2020. The whole world has been and is still being severely and adversely affected both on the economic and sanitary fronts. In Mauritius, we are experiencing the first economic recession in 40 years and most businesses, more specially; small businesses have been severely impacted. The House would recall that in May of this year, the Landlord and Tenant Act was amended through the COVID-19 (Miscellaneous Provisions) Act 2020 so that non-payment of rent in respect of premises for the months of March to August would not constitute a breach of tenancy agreement, provided that the said rent is fully paid in instalments by 31 December 2021. This moratorium and payment of rent, both in respect of residential and business premises, was brought in so as to provide some relief to impacted tenants and to protect employment within small and medium businesses.

Mr Speaker, Sir, in the light of these exceptional circumstances and with a view to demonstrating Government's, and hopefully the House's commitment to help small businesses survive the crisis, protect employment and promote economic recovery, we are proposing that the moratorium - after which business lettings will be liberalised - be further

extended for a further period of one year, that is, up to 31 December 2021, to be in line with the moratorium on payment of rent. I would like to point out that the Fair Rent Tribunal which was set up to determine fair rent of business premises let after 15 August 1999, and market rent of business premises let on or before 01 July 2005 to the present, has only 23 cases which are yet to be determined, three of which are awaiting determination by the Supreme Court or the Judicial Committee of the Privy Council. Out of these 23 cases, the last one was launched at the secretariat of the Fair Rent Tribunal on 22 October 2020. So, it is believed that the Tribunal should, within the next six months, be in a position to clear all outstanding cases. Accordingly, it is now proposed that the Tribunal will not accept any new application as from 01 of January 2021 and that all such new cases will be lodged before the appropriate District Court as from that date.

Mr Speaker, Sir, the Act shall therefore continue to apply to business premises let on or before 01 July 2005, subject to a new moratorium of one year. Moreover, the Bill provides that firstly, any application made before 01 January 2021 by a landlord or tenant will be dealt with and determined by the Fair Rent Tribunal not later than 30 June 2021 or in exceptional or unforeseen cases, not later than such date as may be prescribed.

Secondly, all applications presently within the jurisdiction of the Fair Rent Tribunal shall, as from 01 January 2021, be made before the relevant District Court and thirdly, that the Fair Rent Tribunal will not entertain any new application made on or after 01 January 2021, whether by a landlord or a tenant.

So, in short, my understanding is that after the coming into operation of the relevant sections of the amended Act, the Court will, on the one hand, continue to determine the fair rent applicable to business premises, to business lettings prior to 01 July 2005, and on the other hand as regards other business premises for one year, determine the market rate. Thus, Mr Speaker, Sir, if I may go into the details, clause 3 of the Bill provides that section 2 of the principal Act be amended by deleting the definitions of “Chairperson”, “determination of the Tribunal”, “member” and “Tribunal” since the Fair Rent Tribunal will cease to operate.

Clause 4 of the Bill provides for section 3 of this principal Act to be amended in subsection 2(a) (b) by deleting the words “31 December 2020” and replacing them by the words “31 December 2021”, thus providing for the one year moratory.

Clause 5 of the Bill provides for section 4 of the principal Act to be amended, firstly, in subsection 4, by deleting the words “Tribunal acting in the exercise of its jurisdiction” and

replacing them by the word “Court”. And secondly, in subsection 5, by deleting the words “Where the Tribunal”, the words “section 14” and the words “the Tribunal” and replacing them respectively by the words “Where the Court”, the words “section 12” and the words “the Court”.

Clause 6 of the Bill amends Part III of the principal Act in the subheading, by deleting the words “**Sub-Part A - Rent**”, and in section 6, by deleting the word “Tribunal” wherever it appears and replacing it by the word “Court”. Clause 6 also inserts after section 9, three new sections with reference to the exercise of the Courts jurisdiction.

Section 10, Determination of rent; section 11, Principles applicable to determine fair rent, and section 12, Review by Court of its determination. This clause also provides for the repeal of Sub-part B of the Act which relates to the operation of the Fair Rent Tribunal.

Mr Speaker, Sir, Clause 7 of the Bill provides for section 30 of the principal Act to be amended, in subsection (3)(b), by deleting the words “ask the Tribunal” and replacing them by the words “apply to the Court”.

Clause 8 of the Bill provides for the repeal of section 32 of the principal Act. Clause 9 provides for Part V of the principal Act to be amended by adding a new subsection 32 pertaining to the jurisdiction and powers of the Court as well as appeals from Court. This clause also provides for repeal of subsection (1) of section 33 of the principal Act and its replacement by a new subsection. It also provides for the addition of a new section 34A in relation to Transitional provisions and savings with a view to, *inter alia*, empower the Fair Rent Tribunal to determine not later than 30 June 2021 any application made to it before 01 January 2021 under the repealed section 11 of the principal Act.

Finally, clauses 10 and 11 provide for amendments to be brought to the First Schedule and to the Second Schedule of the principal Act respectively.

As a concluding note, Mr Speaker, Sir, I believe that the present Bill will provide some relief to tenants of business premises and that sufficient time is being provided for the liberalisation of business lettings as from 01 January 2022.

With these words, Mr Speaker, Sir, I now commend the Bill to the House.

Thank you.

**The Vice-Prime Minister, Minister of Education, Tertiary Education, Science and Technology (Mrs L. D. Dookun-Luchoomun) seconded.**

**Mr Speaker:** Hon. Ramful!

(6.10 p.m.)

**Mr R. Ramful (First Member for Mahebourg & Plaine Magnien):** Thank you, Mr Speaker, Sir.

Mr Speaker, Sir, let me also start by very briefly deal with the historical development of this specific law which, in fact, regulates the relationship of certain categories of tenancy. I say certain categories of tenancy because this Act deals in particular with unfurnished residential tenancy and also business premises that were let prior to 2005.

Now, in 1999, as rightly pointed out by the hon. Deputy Prime Minister, the Landlord and Tenant Act was enacted by the Labour Government and this was the first step towards the process of liberalisation of business premises, whilst, on the one hand, maintaining security of tenancy for residential premises let prior to 1999, so that rentals of business premises do reflect the prevailing market value, thus, allowing for modernisation and urbanisation. As such, Mr Speaker, Sir, in the 1999 Act, the Landlord and Tenant Act 1960, a law which dates back to 1960, 50 years old, was repealed, abolished and the Fair Rent Tribunal was introduced which had the specific task of fixing the market rent of premises falling under the purview of that particular legislation. Now, there was the amortisation of the increase in the rent; there was a mechanism that was provided in the Schedule to the Act. Well, I do not propose to go into this issue because this is not the purport of the amendments, but the amortisation of the increase in the rent was, as I have said, set in the Second Schedule of the Act.

In 2005, the then Government came with amendments to the Landlord and Tenant Act by providing for the liberalisation of business lettings made after 01 July 2005 and as for business lettings made on or before 01 July 2005, they were to be fully liberalised as from 30 June 2012. The formula for the amortisation of the increase in rent was revisited to 15% of the difference between the actual rent and the market rent.

In 2009, further amendments were brought, extending the cut-off date from 2012 to 2017 and the formula for amortisation of the increase in rent was further revisited and was a decrease to 10% in order to protect the tenants who were facing a difficult situation and it was during the aftermath of the financial crisis. In 2017, the liberalisation date was extended by a further period of three years until December 2020 for these categories of business premises. Today, we are debating a further amendment which proposes to extend that period



by a further moratorium of one year. Mr Speaker, Sir, we have to bear in mind the context in which this Bill is being debated. Most of these businesses have been severely affected by the COVID situation and the state of the economy is not helping them either. This is why following representations made by the president of the *Front Commun des Commerçants de l'île Maurice*, on 10 November, in a PQ B/795, I asked the hon. Deputy Prime Minister whether consideration will be given for amendments to be brought to the Landlord and Tenant Act with a view to extending the applicability to businesses leased to prior to July 2005.

I am also aware that meetings were held at the level of the Ministry of Housing and Land Use Planning where the President and the members of that particular association were allowed to voice out their grievances. Now, I take note that the hon. Deputy Prime Minister has acceded to their request, in principle, by extending the applicability of that legislation.

However, Mr Speaker, Sir, the extension of one year only, in my opinion, is debatable, given the present economic situation. We have to bear in mind that we are here dealing with business premises leased mostly to small traders, small shops, *tabajies*, fabric shops, barber shops. Their businesses have suffered, as I said, as a result of the impact of the COVID and they have not benefited from Wage Assistance Scheme or Self-Employed Assistance Scheme either. They are struggling both in terms of input, their costs, their expenses, labour costs, etc., and in terms of their output as well, struggling to sell their products.

In such situation, these traders, there are about 250 of them, need to be assisted as they are the most vulnerable. Everybody should agree, Mr Speaker, Sir, that we have to make some sacrifices, be it the tenants or the landlords. Otherwise, Mr Speaker, Sir, with the present economic situation, landlords may find their premises vacant for quite a long time. With only one year extension, that is, till next December, the rent of all business premises will be liberated and the market rate would apply to those premises, and these small traders who have, everybody will agree, contributed a lot to our economy for years, might find themselves out of business, especially, as I have said, if the economic situation continues to deteriorate. This is why I suggest that maybe the hon. Deputy Prime Minister should keep an open mind and consider whether this extension of one year only would be sufficient.

Now, there is the second amendment which is with regard to the abolition of the Fair Rent Tribunal in relation to new applications, new cases. It is being proposed that any new

applications, as from January 2021, shall henceforth be entertained by the District Courts and not by the Tribunal, and the Tribunal shall have jurisdiction only to hear and determine pending cases. I can't really see the logic in why shouldn't the Tribunal continue to hear new cases. The reason why a Tribunal is considered to be more appropriate is because if you look at the existing legislation, in particular if you look at section 10(3), Mr Speaker, Sir, it provides that the Chairperson of the Tribunal shall be a magistrate of not less than 5 years' experience or a barrister of not less than 10 years' experience, and the magistrate or barrister shall be assisted by two experts; experts in property matters, experts in valuation. Valuation is a complex issue. You need more than a legally trained mind to be able to make an award on such cases. This is why the existing law provides for the magistrate, the experienced magistrate to be assisted by two experts. And now, this amendment is proposing that new cases shall be considered by a District Magistrate who has only about two years' experience, without even being assisted by experts. As I have said, these types of cases require expert knowledge, Mr Speaker, Sir. This is one of the reasons why I consider that even for new cases, these new applications should be entertained by the Tribunal. The Tribunal should continue to operate, should continue to exercise jurisdiction over new cases.

One another reason why a Tribunal would be more efficient is that it is provided in section 12 of the existing law that the proceedings before the Tribunal shall be informal, because, Mr Speaker, Sir, as I have said, we are dealing with small businesses, small traders. They need an informal forum for them to be able to express themselves. Now, we are proposing with the amendment, that they should enter their case before a District Court where the rigid rules of evidence shall apply where they will have to seek the services of legal advisers, lawyers. Their expenses will be much higher.

Another reason why I suggest that we should continue to allow a Tribunal to entertain even new applications. There is a delay in the law, section 12 of this existing legislation. There is a delay of 12 weeks from the start of the proceedings. The Tribunal is given 12 weeks for it to make a determination on a specific case and to come with an award; 12 weeks. There is a limitation, and we know, Mr Speaker, Sir - I am a lawyer; there are many lawyers in the House - civil cases before District Court take years to be determined; 3 years, 4 years, 5 years, whereas before a Tribunal, they have a delay of 12 weeks to come with an award. So, these would be the reasons why I would suggest if the hon. Deputy Prime Minister can reconsider that even for new cases - because we have only one year - the Fair Rent Tribunal should continue to have jurisdiction in order to be able to entertain these cases as well.

Therefore, Mr Speaker, Sir, I shall not be long. To conclude, I repeat, I am satisfied that the hon. Deputy Prime Minister, in principle, has agreed on granting an extension, but the period of extension, as I have said, is debatable. The Deputy Prime Minister should, I suggest, keep an open mind and also, as I have said, I do not agree with the abolition of the jurisdiction of the Tribunal with regard to new cases. Thank you, Mr Speaker, Sir.

**Mr Speaker:** Hon. Dr. Mrs Chukowry!

(6.24 p.m.)

**Dr. Mrs D. Chukowry (Second Member for GRNW & Port Louis West):** Mr Speaker, Sir, thank you for giving me the floor to address the House on the Landlord and Tenant Bill.

Hats off to the Deputy Prime Minister, Minister of Housing and Land Use Planning, Minister of Tourism, the hon. Louis Steven Obeegadoo, for bringing to the House the Landlord and Tenant Bill which seeks to protect both the landlords and the tenants of business premises.

Mr Speaker, Sir, the amendment of the Landlord and Tenant Act by way of a Landlord and Tenant Bill to extend the provisions of the said Act to 31 December 2021 for rental procedures of business premises on or before July 2005 cannot have come at a better time.

We are all too cognisant of the debilitating aftermath of the COVID-19 pandemic on our domestic socio-economic activities and the unfortunately irreversible consequences that the unavoidable lockdown brought in its wake. One of the sectors that have been deeply affected is the letting of business premises whereby the downturns or halting of business operations have had a disastrous impact on both tenants and landlords of business systems.

Mr Speaker, Sir, the Government has therefore taken the effective and efficient decision to review the current Landlord and Tenant Act and bring into effect, through the Bill, such amendments in a bid to provide some measures of transparency, fairness, diligence, and more importantly perhaps, relief, to the numerous stakeholders directly involved in business tenancy. The determination of rent in section 10 of the Bill warrants our particular attention, namely in terms of the period benchmarks and limits in the evaluation of rental dues. The Fair Rent Tribunal will gradually phase out to make way for the relevant and appropriate Court, which will be mandated with the necessary powers within its jurisdiction as provided by the amendments to, and I quote –

“review, maintain, vary or set aside”

any determination or agreement pursuant to an application made by a landlord or tenant on or after 01 January 2021 that was previously held after August 1995 or on or before 01 July 2005.

Mr Speaker, Sir, the Government has gone further into ensuring that any claim by either party, that is, landlord or tenant to establish rental procedures or dues shall on application for judicial proceedings be determined by the designated Court based on clearly spelt out criteria delineated in the Bill, especially related to locus, architectural and structural properties.

Mr Speaker, Sir, the policy and vision of the Government is translated through the very DNA of the Bill: to guarantee that each and every individual is afforded a fair, balanced, transparent and reasonable repository through structured legal processes.

Mr Speaker, Sir, on a final count, the amendment will favour both landlords and tenants with critical safeguards and possibilities of appeal to ensure that rental agreements are respected and abided to as well as act as a strong deterrent to intents of fraudulent or malicious derogation to rental agreements. This, Mr Speaker, Sir, says a lot about the commitment of the Government in restoring order despite prohibitive circumstances in a very sensitive sector as the rental of business premises one. This is, therefore, Mr Speaker, Sir, a further testimony of our common endeavour to further strengthen and support the relentless efforts of our esteemed business community, the lifeblood of our motherland.

To conclude, I would like to congratulate the Deputy Prime Minister for bringing to the House the Landlord and Tenant Bill which is, in fact, *une bouffée d'air frais* for both landlords and tenants of business premises.

Thank you very much for your attention.

(6.30 p.m.)

**Mr R. Duval (Fourth Member for Mahebourg & Plaine Magnien):** Merci, M. le président.

M. le président, je ne vais pas ressasser ce que les autres orateurs qui m'ont précédé ont énoncé. Je ne vais pas non plus faire de la démagogie, sauf que ce projet de loi m'interpelle sur quelques points que je considère seyants et méritent que je m'y attarde.

D'abord, M. le président, je trouve intéressant le fait que ce projet de loi repousse l'échéance au 31 décembre 2021 pour tout ce qui a trait aux locaux d'affaires loués avant le 1<sup>er</sup> juillet 2005. De ce fait, cette initiative permettra aux divers opérateurs de souffler quelque peu et de se préparer en la circonstance pour l'entrée en vigueur de la *Landlord and Tenant (Amendment) Act*.

M. le président, l'on glosera beaucoup pour reprocher aux détracteurs de cette loi qu'ils ont eu tout le temps voulu pour se préparer à subir d'éventuelles hausses de leur loyer au prix du marché. Si je soulève ce point ici, M. le président, c'est que je parle des petits commerçants qui ne roulent pas sur l'or, qui vivent au jour le jour, qui doivent se plier au salaire minimum vis-à-vis de leurs employés, sans compter toutes les autres charges inhérents de tout petit commerce. En sus, ils sont doublement pénalisés par le COVID-19 qui les a plombés financièrement, comme énuméré précédemment par mon collègue l'honorable Ramful.

Un autre point qui me chiffonne, M. le président, et cela, j'aimerais que le ministre concerné en prenne bonne note. Comment déterminer une location qualifiée de juste ? Selon l'article 11 du projet de loi, une liste de pas moins de six points sont mis en avant par la Cour déterminent ce qu'on surnomme un *fair rent*. Je m'explique, M. le président. La Cour va prendre en considération le lieu, la qualité, la période de construction, l'état du bâtiment, les réparations, rénovation entreprise soit par le locataire des lieux, soit par le propriétaire lui-même, la valeur actuelle des bâtiments aux alentours pour déterminer le prix de la location d'un bâtiment. Ma question est ceci, M. le président. Quelles compétences à une Cour de justice pour déterminer ces valeurs pour imposer un *fair rent* ? Ne faudrait-il pas que soit attaché à la Cour une équipe d'évaluateurs chevronnés pour être *fair* dans l'application d'un *fair rent* ? À la section 10 (3) (b) de ce projet de loi, M. le président, il est écrit ceci, et je cite

—

*“The Court may order that the rent of any premises, other than business premises, shall gradually increase over a period not exceeding 48 months from the date of its determination in order not to cause excessive hardship to the tenant.”*

M. le président, on parle de ‘*other than business premises*’. Est-ce à dire que les locaux d'affaires pourraient subir des augmentations au bon vouloir des propriétaires ? Et on parle ici de la valeur marchande en cours. En clair, les propriétaires pourraient pratiquer des loyers exorbitants et hors de prix des petits commerces.

Sur ma lancée, je voudrais, M. le président, attirer l'attention du ministre concerné sur le fait que la section 12(a) parle du *review by the Court* d'une des décisions concernant le *fair rent* d'un bâtiment commercial. Cela pourrait dire, selon ce texte de loi, M. le président, que si la cour estime qu'entretemps il y a un gros changement en terme de valeur commercial en vigueur, il peut apporter des changements en faveur des propriétaires sur la location au détriment des locateurs. Et de quel droit, M. le président, car il serait injuste pour les locateurs de se laisser faire par des propriétaires qui ne pensent qu'à saigner leurs locateurs. C'est tout à fait normal que la valeur commerciale soit appelée à évoluer avec le temps, mais est-ce une raison, M. le président, pour que la cour se plie au diktat des propriétaires?

Mon dernier point est le plus important, M. le président, et cela concerne le harcèlement que subisse les petits commerçants vis-à-vis des propriétaires. Il est un fait que la plupart des bâtiments commerciaux de la capitale et ailleurs, comme à Port Louis, Quatre Bornes et ailleurs dans toutes les villes, sont vieux, délabrés, des toits fuient, des fils électriques pendent, les toilettes sont tout sauf des toilettes. Bref, ces bâtiments dits commerciaux, ont l'avantage de bien se situer soit au centre-ville soit dans des points stratégiques très fréquentés par les citoyens. Hors, que constatons-nous, M. le président, avec la bénédiction de la cour, qui statuera selon son jugement, les propriétaires vont volontairement augmenter leur loyer, poussant ainsi les petits commerces à fermer boutique parce que financièrement pas supportable.

A la fin de la journée, M. le président, le gouvernement est en train de donner un chèque en blanc aux propriétaires qui ne demandent que leurs locateurs plient bagages pour qu'ils démolissent leurs vieux bâtiments pour construire un immeuble commerciale à la place, avec à la clef un joli pactole en terme de la location.

Et pour finir, M le président, toujours concernant les propriétaires avec des immeubles flambant neufs, il y ce qu'on appelle le pas de porte. Savez-vous, M. le président, que souvent de grosses sommes d'argent, souvent en liquide, sont offertes loin des yeux de tous pour l'obtention d'un espace commercial ou d'affaires, en sus des loyers mensuels ou annuels ?

Pour moi, M. le président, ce projet de loi a le mérite d'avoir pris en compte le cri de cœur des petits commerçants. L'échéance repoussée à décembre 2021 va dans ce sens mais ici je m'adresse directement au ministre de tutelle : soyez attentif aux différents avantages qu'offre ce projet de loi aux seuls propriétaires, passé le délai de décembre 2021.

M. le président, je conclurai et mon souhait c'est j'espère que ces travailleurs invétérés qui ont contribué à notre richesse culturelle, folklorique, tels que sont ces petits commerces, tailleurs, coiffeurs, ferblantiers, boulangers, réparateurs de pneus, épiciers, vendeurs de toutes les saveurs propres à notre pays se retrouveront dans ce projet de loi.

J'en ai terminé, M. le président. Je vous remercie.

**Mr Speaker:** Hon. Ramkaun!

(6.39 p.m.)

**Mr S. Ramkaun (Second Member for Pamplemousses & Triolet):** Mr Speaker, Sir, I thank you for allowing me to debate on this important piece of legislation, the Landlord and Tenant (Amendment) Bill (No. XX of 2020), not to allow owners of commercial building a blank cheque for demanding high rent and to put at stake the life of small businesses.

I wish here to congratulate hon. Steven Obeegadoo, Deputy Prime Minister, Minister of Housing and Land Use Planning, Minister of Tourism to bring this Bill to this august Assembly for the benefit of small businesses which are really in a difficult situation caused by an invisible virus known as Coronavirus. This piece of legislation is an amendment to the Landlord and Tenant Act so as to extend to 31 December 2021 to operate, up to which this Act shall continue to apply business premises let on or before 01 July 2005. There is no such controversy on the extension of the application of this Bill and I can see Members on the other side of the House having practically no argument against.

Mr Speaker, Sir, in addition, the Bill provides that -

First, that the Fair Rent Tribunal will not entertain any new application made on or after 1<sup>st</sup> January 2021 by a landlord or tenant.

Second, any application made prior to 1<sup>st</sup> January 2021 by a landlord or tenant will be considered, and determined, by the Tribunal not later than 30 June 2021 unless any unforeseen circumstances arriving.

Third, all applications falling under the jurisdiction of the Fair Rent Tribunal will, as from 1<sup>st</sup> January 2021, be made before the District Court exercising jurisdiction in the district or other area where the relevant business premises are situated.

Mr Speaker, Sir, the Landlord and Tenant Act (No. 6 of 1999) provides rules related to the relationship and contractual agreement between the landlord and tenant and makes provision for other matters relating to such relationship, including resolution of disputes, the

control of rent and prescribed offences. Among others, Part 3 concerns rent control, that is, regulates and defines fair rent, requires the landlord to keep a rent book; prohibits excessive claims of rent, regulates transfer of burden or liabilities. This part also prescribes permitted increase of rent; a Fair Rent Tribunal established under Section 10; Jurisdiction and powers of the Tribunal are defined in Section 11, whereas Section 12 regulates the Proceeding of the Tribunal.

Avant d'évoquer le *Fair Rent Tribunal*, il faut remonter le temps. Le *Landlord and Tenant Act* a été introduit le 1er août 1960 après le passage du cyclone Carol - comme l'a justement mentionné l'honorable ministre - qui avait dévasté les maisons et les bâtiments en faisant d'énormes dégâts. Ainsi, louer une maison dans les emplacements commerciaux était devenu un business lucratif pour de nombreuses personnes. Il fallait, donc, réglementer les choses à travers une loi. M. le président, au fil des années on a constaté que le *Landlord and Tenant Act* est dépassé. Elle ne laissait aucune provision pour la révision à la hausse de la location et continuaient à occuper leur bâtiment en réglant un loyer vraiment dérisoire. Quarante ans après sa promulgation, elle a été remplacée par un nouveau *Landlord Act* qui a prévu un *Fair Rent Tribunal*.

Suite à un amendement apporté à la loi en 2005, le bâtiment industriel a été enlevé de la liste. M. le président, le 18 mars 2005, il y a eu un amendement du *Landlord Tenant Act de 1999*, et à partir de cette date, cette loi ne s'applique plus aux *business premises* loués avant le 1er juillet 2005 et après le 30 juillet 2012. Cette loi a été amendée de nouveau en 2009 pour prolonger les délais jusqu'au 31 décembre 2017 et subséquemment le délai a été prolongé au décembre 2020.

Mr Speaker, Sir, the amendments being made to the principal Act today is that –

“‘Section 3 of the principal Act is amended’ in subsection 2(ab), by deleting the words “31 December 2020” and replacing them by the words “31 December 2021.””

Subsequently, Clause 5 - Section 4 of the principal Act is amended as appropriate by deleting the words “Tribunal acting in the exercise of its jurisdiction” and, of course, replacing the same by the words “Court”.

Similarly, other Clauses are amended for the determination of rent such that –

“the Court shall, on an application made to it by a landlord or tenant on or after 1 January 2021”



Further to the COVID-19 pandemic and with world leaders meeting, discussing and finding ways to ease the population back into the workforce and active life, there have been important amendments made to 56 laws in Mauritius through the COVID-19 Bill.

Concerning the Real Estate Sector, Clause 30 of the COVID-19 (Miscellaneous Provisions) Act 2020 relates to amendments to the law governing the rental of properties - Landlord and Tenant Act granting a six months' moratorium on payment of rent for those renting professionals, commercial and residential premises. The objective was to allow those who could not or cannot pay their rent during the sanitary curfew period until end of August 2020 to do so, through a rescheduling formula to be mutually agreed between the tenant and the owner.

Mr Speaker, Sir, to conclude, I would proudly say that the Government, under the able leadership of our visionary Prime Minister, hon. Pravind Kumar Jugnauth, has left no stone unturned to ensure the security of our people again with his blessing and guidance and the support of all the Members on this side of the House.

The Deputy Prime Minister, hon. Steven Obeegadoo, has produced a marvellous piece of legislation which shall defend the interests of traders during this difficult period.

Mr Speaker, Sir, I thank you for your attention.

(6.48 p.m.)

**Mr R. Uteem (Second Member for Port Louis South & Port Louis Central):** Mr Speaker, Sir, we have currently two separate and distinct regimes applicable to lease of premises.

One regime is governed by the Landlord and Tenant Act which is generally perceived to be largely tenant-friendly which protects a tenant from eviction, which protects a tenant from unfair increase in rent, and then for property that falls outside the Landlord and Tenant Act, business premises set up after July 2005 and residential premises that are fully furnished, there is a specific regime under the Civil Code which is largely contractual.

So, if, today, you want to rent a business property or rent a fully furnished house, you will enter typically into a lease agreement. The lease agreement will determine the amount of rent and the duration of the lease. At the end of the lease, the parties can negotiate to get another lease and to increase the rent, and if there is no agreement, the tenant has to vacate the premises.

So, it is very business friendly, it is very contractual then you have the Landlord and Tenant Act. For premises that falls within the Landlord and Tenant Act, the regime is much more tenant friendly and the reason, as was rightly pointed out by the hon. Deputy Prime Minister and hon. Ramful before me, is the historical one.

The Landlord and Tenant Act of 1960 which predates the Landlord and Tenant Act of 1999 was enacted following two devastating cyclones namely Alix in January 1960 and Carol in February 1960.

In 1960, many people became homeless and there was an urgent need to protect tenants from both residential and business premises. That is why in 1960, the Landlord and Tenant Act made it more difficult for a landlord to increase rent or to evict a tenant.

However, because they were unable to increase the rent to reflect the market value of the premises and because they were unable to pass on any improvement of their premises to the tenant, many landlords were not interested in renovating their premises and some of them even allowed the premises to fall in disrepair, in decrepitude. The more unscrupulous landlords had recourse to thugs to intimidate tenants to vacate their premises, some even caused the premises to be burned down.

In 2005, the Landlord and Tenant Act was amended. Business premises, let after July 2005, were no longer covered by the Landlord and Tenant Act and for business premises that were let before 01 July 2005, there was a moratorium that these business premises would be governed by the Landlord and Tenant Act but only until 30 of June 2012. So, tenants were given seven years to negotiate with the landlords for a rental agreement.

However, before 2012, in December 2009, the Landlord and Tenant Act was amended and the moratorium period was extended from 30 June 2012 to 31 December 2017. Then, in December 2017, the Landlord and Tenant Act was, again, amended so as to extend the moratorium period to 31 December 2020. Today, we are being asked to extend the moratorium period by, yet, another year so that business premises that were let before 01 July 2005 will continue to be governed by the more tenant-friendly Landlord and Tenant Act until 31 December 2021.

Mr Speaker, Sir, every Government in power - be it the MMM-MSM Government in 2005, the Labour-PMSD Government in 2009, the MSM-ML Government in 2017 - has tried to limit the application of the Act to business premises let before 01 July 2005, but has ended up extending that moratorium period. When we read Hansard, all interveners in favour of

extending the moratorium referred inevitably to the hardship that will be caused to tenants of business premises if they were no longer protected tenants. These tenants would no longer be able to pay the market rent and would have to close down their businesses. The closure of businesses will lead to unemployment and cause further hardships not only on the tenants but also on the employees and their families. Today also, in this House, we have heard the same argument, the need to protect small enterprises as a justification for extending the moratorium.

Mr Speaker, Sir, COVID-19 pandemic has affected business throughout the island. Some sectors have been hit harder than others. The tourism sector is probably the most hardly hit, but there are also many small businesses which have been directly or indirectly hit. I am thinking about shops selling souvenirs, SMEs involved in handicrafts, restaurants even factories and many of these small businesses operate from rental premises and they will, no doubt, be financially affected if they were no longer protected tenants.

At the same time, Mr Speaker, Sir, we fully sympathise with the landlords who want to renovate their premises, who want to develop and expand their buildings and are unable to do so because of the presence of protected tenants. And, truth be told, some of these buildings today are real eyesores. Even in Port Louis, even a few metres from the National Assembly, we can see very old buildings where tenants are paying indecently low rents, I am thinking about my confrères who are in buildings not far away from here. So, these are tenants who could have afforded to pay higher rent, but because they are protected tenants, the landlords are unable to pass on any increase of rent on these tenants.

Having said that, Mr Speaker, Sir, because of the exceptional circumstances we are finding ourselves with the COVID-19 pandemic, I am sure that the landlords can wait for another year, I am sure that the landlords have to understand that it will not be appropriate for small businesses to no longer be covered by the Landlord and Tenant Act. And we are agreeable to the extension proposed in this Bill for an additional moratorium of one year.

Now, as far as payment of rent is concerned, there is already a mechanism in the Landlord and Tenant Act to allow landlords to gradually increase the rent in accordance to a formula set out in the Second Schedule of the Act. This is currently 10% of the difference between the market rate and the current rate every year. So, if for example, a landlord had started to increase rent as far back as 2010, or even before that, by now his rent should have been more closer to market rent, which takes me to the crucial question as to who should

determine what the market rent is. Back in 1999, when the Landlord and Tenant Act was enacted, provision was made for the creation of a Fair Rent Tribunal to determine the fair rent for residential premises. And in 2005, the Act was amended to specifically provide that the Fair Rent Tribunal can determine the market rent for business premises let before 01 July 2005. Now, the Fair Rent Tribunal consists of a Chairman who is a Barrister of at least 10 years standing or a Magistrate who has held office for at least five years, and of two members who have experience in valuation and property matters. The Landlord and Tenant Act set out the factors and circumstances which the Fair Rent Tribunal has to take into account when determining the fair rent or the market rent, such as the location of the premises, the age, the state of repair, the value of the property, but also the reasonable return that a landlord can expect from similar premises.

But more importantly perhaps, Mr Speaker, Sir, in 2005, the law was amended to introduce section 12(10), which require the Fair Rent Tribunal to make a determination not later than 12 weeks after the start of the hearing of any application to the Tribunal. So, it was a fast-track mechanism. A landlord wants to increase the rent or the tenant is disputing the rent being asked by the landlord, they seize the Tribunal, the Tribunal is a specialised Tribunal with a senior lawyer and two professional assessors and the Tribunal has 12 weeks to make a determination. And the system, as far as I know, was working well. So, I do not really understand, Mr Speaker, Sir, why are we today, in this Bill, proposing to do away with the Fair Rent Tribunal. Why are we proposing that the Fair Rent Tribunal will cease to entertain any new application as from 01 January 2021? Unfortunately, I have not been able to find statistics about the number of cases currently pending before the Tribunal. I heard the hon. Deputy Prime Minister mention the figure of 23 cases currently before the Tribunal, but 2020 is hardly a year of reference because as it was rightly pointed out by the hon. Deputy Prime Minister, in 2020, the law was amended to prevent eviction on the ground of non-payment of rent. So, the question of increasing rent did not arise. What I found more useful is the Annual Report of Performance for Financial Year 2016-2017 published by the Ministry of Housing and Land and there is a section about the Fair Rent Tribunal on page 26 -

#### **“Fair Rent Tribunal**

•	No. of cases lodged before the Tribunal:	115
•	No. of cases determined by the Tribunal:	87
•	No. of cases awaiting a determination:	28”

So, based on these figures for 2016-2017, that is publicly available, we can see that in a year the Tribunal entertained 115 cases and was able to resolve 87 of them. So, almost 80% of the cases that were lodged were properly determined by the Fair Rent Tribunal. So, I do not understand the rationale of making the District Court now the jurisdiction to determine fair rent, to determine market rent. Our Courts are already congested. The Magistrate will not have the benefit of the two qualified assessors, the two professional valuers that the Tribunal has now. And there is also no statutory limit within which the Court can determine the fair rent or market rent once its jurisdiction has been ceased. So, it can take months, years, before there is a judgement on what a fair rent and market rent should be.

Worse, Mr speaker, Sir, if we look at section 10 (4) of the Bill that is being proposed

—

“Notwithstanding the lodging of an application before the Court, the tenant shall pay the rent claimed by the landlord.”

So, what we are proposing to do now is to make the tenant pay the rent which the landlord is claiming from the tenant, even if the tenant is not agreeable to it and the tenant will then go on and seize the District Court and wait for months, if not years for a determination of the rent. In the meantime, he continues to pay the rent. Now, I can see that there is a similar provision today in the Landlord and Tenant Act, which is in section 11(4), but the big difference between now and what is being proposed is that today, even if the tenant has to pay the increased rent, he knows that the Fair Rent Tribunal only has 12 weeks to determine what the rent is. So, there is only an exposure for three months because once the Fair Rent Tribunal fixes the rent, automatically, there would be an adjustment in the rent. So, there is only an exposure of three months today. But what is being proposed today is that the tenant will have to pay the rent claimed by the landlord and then go to Court and then wait for months and years before they get a determination and in the meantime, the tenant may be out of business, may be bankrupt.

So, Mr Speaker, Sir, I would urge the hon. Deputy Prime Minister to come with appropriate amendments at Committee Stage either not to scrap the Fair Rent Tribunal, or at the very least, provide sufficient safeguard to protect a tenant while a case for determination of fair rent is pending before the District Court.

Thank you.

**Mr Speaker:** Hon. Ramano!

(7.05 p.m.)

**The Minister of Environment, Solid Waste Management and Climate Change (Mr K. Ramano):** M. le président, merci de me donner la possibilité d'intervenir sur le *Landlord and Tenant (Amendment) Bill* de 2020. Ce *Bill*, M. le président, semble très bref avec la phrase explicative –

“(...) to amend the Landlord and Tenant Act so as to extend to 31 December 2021 the period up to which the Act shall continue to apply to business premises let on or before 1 July 2005.”

Mais cet amendement, M. le président, est le résultat de plusieurs lois et de plusieurs amendements. Cet amendement, M. le président, est le résultant de plusieurs lois et de plusieurs amendements. M. le président, avec votre permission, je ferai une petite historique mais beaucoup a été dit par les différents intervenants avant moi en ce qui concerne le contexte particulier que le *Landlord and Tenant Act* a été introduit pour la première fois en 1960, où le *income per capita* était d'environ 250 dollars par habitant et le pays a été frappé par des cyclones très violents, Alix et Carol, comme mentionné par les honorables membres de la Chambre.

M. le président, à cette époque-ci, vu la précarité de la situation, la pauvreté et la propriété privée des locaux, tant résidentiels et commerciaux étaient à son plus bas niveau. Le législateur, à juste titre à ce moment-là, avait un objectif précis : *provide tenants of both residential and business premises, favorable rent and security of tenure*.

M. le président, il faut quand même reconnaître que le *Landlord and Tenant Act* devait rester inchangé pendant presque 40 ans et même avec les amendements de 1999, 2005, 2009, 2017, nous nous rendons donc compte à l'évidence aujourd'hui qu'il est très difficile de faire la part des choses entre les locataires et les landlords, mais quand même il faut bien que le pays avance, il faut bien qu'on puisse apporter le développement nécessaire au niveau de l'immobilier. Et nous nous rendons compte aujourd'hui, d'un point de vue économique, qu'une croissance au niveau de l'immobilier a un effet domino sur les autres secteurs de l'économie. M. le président, le *National Economic Development Council*, en 1993, a fait quelques commentaires sur la loi de 1960. The Act is overprotective of tenants; investors prefer to develop properties for outright sale than for rental, a factor which contributes to a reduction in the supply of rental housing. Sir Mark David, le *Chairman* du National Economic Development Council fit la remarque that, *it has not been possible to trace any*

*similar practice elsewhere in the world.* Cette situation, il faut le dire, M. le président, n'était guère encourageant pour le propriétaire d'entreprendre des réparations ou encore de développer et de reconstruire des immeubles, et cela, bien que nous reconnaissons tous que le rôle de l'Etat est de pourvoir à un certain nombre de logements sociaux pour ceux avec les plus bas revenus ou encore quelques bâtiments pour des besoins industriels et commerciaux. Le rôle social de l'Etat est un ignare aux économiquement faibles, mais il faut le reconnaître qu'il appartient au privé, comme cela a toujours été le cas d'entreprendre des projets immobiliers tant pour les destinations résidentielles que commerciales.

M. le président, il faut souligner que la loi de 1999 laissa pratiquement inchangées les conditions attachées à la location des habitations comme prévue sous la loi de 1960. Pour les habitations, ce qui avait changé c'était la possibilité de négociation entre le propriétaire et le locataire pour des compensations ou encore des *repossession orders*. Je ne vais pas m'appesantir là-dessus parce que le but de la loi aujourd'hui cela concerne les *commercial premises leased on or before July 2005*.

Pour les *businesses premises*, la mise en application du *Fair Rent Tribunal* demeure le point pivot de la loi de 1999 avec, bien sûr, des formules de calcul du loyer. La loi de 2005 présenté par l'honorable Lesjongard, alors ministre du Logement et des Terres, fut le constat suivant pour les *business premises*. Malgré les ambitions de la loi de 1999 qui visait à corriger les manquements de la loi de 1960, le constat est amer, *a deterioration of the standard of upkeep of business premises often leading to strenuous relationship between landlords and sitting tenants ; continuing occupation of prime positions by non-compatible businesses due to artificially unpaid rent; insalubrious urban environment; inhibition of flow of resources to an important part of the property sector, unfair return on property for landlords to the benefit of tenants who are prosperous businessmen.*

Suivant le budget de 2003-2004, sous le gouvernement MMM/MSM, un *Technical Committee* fut institué pour précisément revoir les manquements du *Landlord and Tenant Act* de 1999 en matière de *business premises*.

M. le président, il convient de le souligner que la loi de 2005 est à la base du présent projet de loi et cette loi vise à la mise en application de la disposition relative au *deregulation of business premises* pour épouser la force du marché et cela a fait l'objet de plusieurs et subséquentes amendements au niveau de la loi, visant à repousser l'échéance des *business premises* let prior du 1<sup>er</sup> juillet 2005.

M. le président, permettez-moi de rappeler les *findings*, le constat du *Technical Committee* en 2005. Les *landlords* find themselves in situations where they are subsidising tenants who are prosperous persons running flourishing businesses. There is no compelling evidence to indicate that a general rise in rent will lead to a significant rise in the level of prices. No justification to give a special concession to industrial premises as opposed to other business premises as there is existing available bank of industrial land and buildings available through DBM, MIDA, industrial buildings at big estates. There is need to move from the very low artificially maintained rental towards market rental for reasons of both good governance and equity.

*M. le président, le point ici c'est précisément* the increase in rent of existing premises is to be attained by progressively allowing business to adapt over a period of 7 years for premises rented prior to 1st July 2005. Et aussi, existing businesses lettings may be increased yearly in an amount equivalent to 15% of the difference between the market rent of the business premises and the actual rent being paid. Et le *Landlord and Tenant Act shall no longer apply to new business premises*, c'est-à-dire, après le 1er juillet 2005. Il est réitéré, M. le président, que le *Fair Rent Tribunal will be given jurisdiction to determine the market rent*.

*Autre point important, M. le président*, termination of an application before the Fair Rent Tribunal to be made not later than 12 weeks after the start of the hearing of the application. M. le président, cette loi de 2005 vise expressément a apporté un *boost* dans l'immobilier tout en donnant la possibilité aux locataires d'avant 2005 de payer toute augmentation d'une façon graduelle sur sept ans, tout en s'assurant que l'augmentation ne dépasse pas les 15% de différence entre le *market rent* et l'*actual rent*. Cette loi de 2005 a jeté les bases de cette relation équitable, je ne dis pas égale, M. le président, qui devait exister entre le propriétaire et le locataire. M. le président, le point de contentieux depuis 2005 a été le régime applicable pour les *business premises let prior to 1st July 2005*. Ainsi, en 2009, le gouvernement d'alors, suivant les représentations de l'*Association of Tenant Traders and Professionals*, apporta deux changements notamment liés, l'*increase of rent* à 10% de la différence du market and imposed rent et d'étendre le moratoire du 30 juin 2012 au 31 décembre 2017. En 2017, M. le président, en raison de la situation des locataires et suivant leurs représentations, le moratoire fut étendu à nouveau au 31 décembre 2020. M. le président, que nous nous trouvons de ce côté de la Chambre ou de l'autre côté de la Chambre, lorsque l'on parcourt les débats de 1999, de 2005, de 2009 ou de 2017, il y a quand même un point de concordance, M. le président. Je le résumerai ainsi. Il est hors de question de



remettre en cause le principe de *security of tenancy* et de prévoir *affordable rent for dwelling for human habitation*, et aussi en ce qui concerne les *commercial premises*. Dans cette nouvelle loi, M. le président, on ne touche même pas à ce principe en ce qui concerne les *human habitations*. Ce qu'on préconise aujourd'hui, M. le président, c'est tout simplement de venir dire que - les locataires des *business premises* louaient *on and/or before* le 1<sup>er</sup> juillet 2005 - cette discrimination positive qu'ils bénéficiaient cesse et qu'ils soient mis sur un pied d'égalité avec les autres locataires des emplacements commerciaux loués après le 1<sup>er</sup> juillet 2005.

M. le président, cet auguste Assemblé ne mérite pas aujourd'hui un débat de connotations politiques. Jusqu'à présent je dois dire que les débats ont été très sobres et il y a eu des contributions très constructives.

M. le président, on n'a pas à se ranger dans le camp des *tenants* ou dans le camp des *landlords*. Les conditions qui méritent qu'on s'y attarde devraient être: est-ce qu'il y a *maintenance of security of tenancy*; est-ce que la possibilité est donnée aux *landlords* de reprendre possession des locaux afin d'encourager le développement immobilier en phase avec une urbanisation moderne ou encore en troisième lieu, M. le président, est-ce qu'on encourage les promoteurs immobiliers à investir dans la construction des locaux commerciaux et, par là même, augmenter l'offre des locaux commerciaux pour qu'on puisse stabiliser ou encore apporter des loyers plus compétitifs sur le marché.

M. le président, je l'ai dit plus haut comment peut-on venir justifier aujourd'hui, en 2020, que pour les contrats signés après le 1<sup>er</sup> juillet 2005, on accepte la libéralisation selon la loi du marché alors que pour le contrat signé *on or before* le 01 juillet les *landlords* doivent se contenir d'une augmentation de 15% qui a été ramené à 10% et, dans bien des cas, ces 10% s'échelonnent aujourd'hui de sept ans, dix ans, dix-sept ans. C'est pour vous dire qu'aujourd'hui il n'y a pas de hausse qui soit en phase avec la réalité du développement, en phase avec le coût de la vie surtout, M. le président.

Ce qui est tout aussi injuste, M. le président, c'est lorsqu'on écoute certains commentaires pour venir dire qu'il faut quand même se rendre à l'évidence aujourd'hui; que les amendements qui ont été apportés en 2009 à travers le ministre Abu Kassenally ne remettent aucunement en cause le principe de la libéralisation du loyer, surtout pour les contrats signés après le 1<sup>er</sup> juillet 2005. L'amendement de 2009 ne concerne que les contrats commerciaux signés avant le 1<sup>er</sup> juillet 2005 qui connaissent une extension de la libéralisation

jusqu'en 2017 au lieu de 2012 tout simplement. On n'invente rien, M. le président. C'est dit noir sur blanc par le ministre Kasenally : *Section 3 of the Principal Act is amended to provide for the moratorium after which business lettings will be liberalised to be extended to 01 of December 2017 instead of 30 juin 2012* et nous sommes aujourd'hui, M. le président, en 2020.

M. le président, la question qu'on est en droit de se poser aujourd'hui: est-ce que le taux de croissance au niveau de la construction au niveau de l'immobilier est arrivé à un niveau appréciable. Quelle est notre marge de manœuvre en matière de politique d'urbanisation ? En quoi cette *over protective attitude* à l'égard des *tenants* a aidé à assainir la situation en matière du prix de loyer ?

M. le président, il est important de souligner que la loi de 1999 présentée par l'honorable Faugoo reconnaissait déjà que *the Act applies to any premises with exceptional furnished or similar premises*. Nous savons pertinemment bien que c'est une pratique courante de tout temps que ce soit pour les immeubles à usage habitation et même pour les usages commerciaux les *mixtes properties*, les *landlords* prévoyaient des *skeleton furniture* afin d'échapper à l'application du *Landlord and Tenant Act*.

M. le président, c'est un principe de base du droit civil qu'un accord, entre deux parties, a force de loi. Toutefois avec l'existence du *Landlord and Tenant Act*, la question de *tenancy* du *quantum* du loyer ou encore la question de repossession sont considérées d'ordre public. Etant d'ordre public, elle échappe aux obligations contractuelles.

M. le président, le présent projet de loi fait explicitement mention de la fin de l'application du *Landlord and Tenant Act* au 30 décembre 2020 pour les emplacements commerciaux dont les contrats ont été signés avant juillet 2005 et cela, M. le président, cette extension au 31 décembre 2021 prend en considération l'instabilité qui a été créée par l'épidémie du COVID-19. Ces contrats de location signés *on or before* le 01 juillet 2005 seront ainsi gouvernés par les principes contractuels comme prévus par le Code Civil. Cela, M. le président, est déjà le cas pour les *furnished premises* ou encore les contrats commerciaux signés après le 01 juillet 2005.

M. le président, cela ne signifie nullement que les locataires seront à la merci des propriétaires. Le Code Civil prévoit bien des recours aux tribunaux en cas d'altération de l'objet de bail, en cas de fraude, en cas d'erreur sur l'objet ou en cas d'abus du consentement en ce qui concerne la fixation des relations financières, du *quantum financier*.

M. le président, les tribunaux sont toujours habilités à déclarer nuls de tels contrats ou encore à déclarer le loyer abusif en cas de violation contractuelle.

M. le président, cet amendement qui est apporté aujourd'hui au *Landlord and Tenant Act* est en phase avec la réalité mauricienne. Nous devons et il nous appartient à apporter le soutien nécessaire au secteur de l'immobilier. Il nous appartient à apporter la protection nécessaire aux différents *tenants* mais M. le président, le temps n'est pas au capital politique; le temps est au développement et je suis sûr qu'avec cet amendement qui est proposé nous trouverons la juste mesure entre les intérêts des *tenants* et les intérêts des *landlords*.

M. le président, je tiens à féliciter le *Deputy Prime Minister* pour l'amendement qui est proposé au *Landlord and Tenant Act*.

Je vous remercie, M. le président.

(7.23 p.m.)

**The Deputy Prime Minister:** M. le président, permettez-moi de prime abord de remercier tous mes collègues de la majorité qui sont intervenus pour soutenir ce projet d'amendements mais aussi les députés de l'Opposition en particulier les députés Ramful et Uteem dont j'ai apprécié le ton et le sérieux. Et je serai très heureux à présent de réagir aux arguments qui ont été avancés.

Mais permettez-moi d'abord de traiter des points qui ont été abordés par le député Duval qui n'est pas là. Je pense que la courtoisie élémentaire au sein de cette Assemblée a toujours été qu'après s'être exprimé que nous soyons là, présent, pour entendre la réponse. M. Duval n'est pas là mais je me dois - c'est mon devoir vis-à-vis de l'Assemblée - de réagir à ses propos même en l'absence de cette courtoisie élémentaire.

Permettez-moi de reprendre quelque chose que j'ai dite tout à l'heure en introduction. *I was saying that, after reviewing the history of all the debates, I was struck by this broad consensus.* Il y a eu consensus tout le temps à partir de 1999 en considérant tous les débats - consensus sur la nécessité de redéfinir à intervalles fréquentes ce qui constitue cet équilibre très délicat à établir entre le besoin de protéger les locataires d'avant 2005, locataires d'espaces commerciaux. Nous nous référons bien évidemment aux petits entrepreneurs, les plus vulnérables donc d'une part et d'autre part, la nécessité de stimuler le développement, d'inciter ceux qui détiennent le capital et la volonté de le faire, d'investir, de rénover, de construire. Pourquoi y-a-t-il ce consensus, M. le président ? Parce que nous sommes tous conscients que le marché du logement, le marché pour ce qui est des espaces commerciaux a

été, pendant longtemps, dysfonctionnel. Déjà, comme l'a observé mon collègue, c'est ce que disait les rapports qui sont à la base du projet de loi de 1999 et puis celui de 2005 introduit par mon collègue, l'honorable ministre Lesjongard. L'état du bâtiment, the *housing stock* du bâtiment en général a été dans un état déplorable pendant de nombreuses années. Donc, c'est pour cela qu'il y a ce consensus que ce soit le MSM, le MMM ou le Parti travailliste au gouvernement. Généralement, tout le monde s'est entendu là-dessus. Et nous sommes d'accord que pour stimuler ce secteur, il faut laisser jouer les forces du marché. Evidemment, un marché régulé avec une protection adéquate pour ceux qui ont besoin d'une telle protection mais en libérant les forces du marché. C'est toute la logique du projet de loi de 1999 et j'ai lu et relu avec attention le discours du ministre d'alors, le ministre Faugoo, qui développe un argumentaire puissant en faveur justement d'une dérèglementation à l'époque déjà, en 1999. Et c'est le même argument que reprend mon collègue, le ministre Lesjongard, en 2005 après avoir établi un bilan critique de la mise en œuvre de la législation de 1999 et argument que va défendre vigoureusement, lors des débats, le Premier ministre d'alors, l'honorable Paul Bérenger. Et ce qui m'a intrigué c'est l'absence quasi-totale du PMSD de tous ces débats. En 1999, je pense que le PMSD est au gouvernement, puis en 2005, puis encore en 2009 et encore en 2017. Donc, je me demande mais quelle est la position du PMSD s'il en existe ? Et aujourd'hui, en écoutant le député Xavier Duval, j'ai senti une remise en question de consensus. C'est comme-ci il fallait retourner à la période d'avant où il fallait tout contrôler, tout cadenasser. Est-ce vraiment la voix de l'avenir ? Moi, j'étais un peu étonné de voir qu'il avait été chaudement applaudi même par mes anciens camarades du MMM à cet égard.

Alors, il a soulevé des questions qui m'ont beaucoup étonné. Il a demandé comment déterminer un juste loyer. Cela relève-t-il de la compétence de la Cour ? Eh bien, les juristes qui ont été au barreau avant 1999, je prends à témoin mon collègue, l'honorable ministre Ganoo, qui comme moi, avons pratiqué pendant longtemps, savent très bien que nous allions en Cour pour déterminer les *Eviction Orders* et ainsi de suite. C'est qu'un juste loyer est défini dans la loi. Cela l'a été depuis 1999, le concept de la protection du loyer même avant 1999. Ça l'est toujours, rien ne change. Donc, qu'est-ce que c'est qu'un loyer juste ? Il y a des critères, des indications qui sont posées dans le texte de loi et cette situation a toujours prévalu. Et puis, après venir dire qu'un établissement, la valeur marchande, la Cour se plie au dictat des propriétaires. Est-ce que les juristes de l'Opposition s'associeraient à un tel argumentaire ? Je souhaiterais vivement le savoir. Mais, au final, que propose le PMSD ?

J'aimerais bien savoir, mais c'est dommage que comme trop souvent ici, la critique est facile et elle ne s'accompagne d'aucune contre-proposition constructive. Laissons le PMSD à ses contradictions.

I was saying that, like my colleague, hon. Ramano, we have been very impressed by the tone and the seriousness in the speeches of hon. Ramful and then of hon. Uteem who have raised some interesting points that I would like to address. The first point raised by hon. Ramful was the extension of one year that was questionable and asked that we should keep an open mind. Absolutely, Mr Speaker, Sir. We always keep an open mind as shown by what happened this morning, the amendments brought to the Children's Bill and related legislation, how much we have kept an open mind and how much we have listened and acted upon suggestions that are positive and constructive. And I shall certainly keep an open mind, *car aucun texte de loi n'est parfait*. Right now, there is on the one hand the need to continue to progress towards allowing the dynamism of the market to stimulate, building property development and construction. On the other hand, we have to extend this moratorium because of the COVID-19 situation plus the Wakashio tragedy and we need to show solidarity - we all agree on that - towards the small businesses.

Now, let us see how the situation evolves. Of course, we don't want this moratorium to become something of a joke. Where are we now? 20 years after 1999, 15 years after Minister Lesjongard introduced the cushioning period of 7 years, then extended to 2017, then to 2020, it is extended now to 2021. But we need to protect those who require protection. So, let us keep an open mind and see how the situation evolves. But for now, we are all agreed that we need a moratorium. My colleague, hon. Ramful, has been careful not to make any suggestions whether the moratorium should last two years, three years, five years, 10 years or 15 years because he knows fully well that such a stand will not be reasonable but we need to extend the moratorium and that is what we are doing today and it would appear we are all agreed on that point.

Now, the argument in common between hon. Uteem and hon. Ramful was what is the logic to abolish, if that is the term, the Fair Rent Tribunal, to phase out the Fair Rent Tribunal and entrust its powers to our District Courts? Now, that proposal is the fruit of discussions had between my Ministry and the State Law Office. It is the considered opinion of the State Law Office and of my Ministry that we should go in such a direction. Why? Because the number of cases is coming down. The number of cases, first of all, as pointed out just now to me by the Attorney General, I think hon. Uteem referred to hundred cases. But, of course,

the 100 cases is the figure for the whole country whereas if it is District Courts handling the cases, then the number proportionally for each District Court will be much less. But even then, for the Fair Rent Tribunal, the numbers have been decreasing and that is logical because we are talking of pre 2005 lettings, cases brought before the Tribunal. My attention is being brought to other points of dissatisfaction with the Tribunal and without attaching any blame to the chairperson or the assessors, but for instance, I did refer to the obligation to determine a case within 12 weeks of the start of the hearing. But, my colleagues, especially the lawyers on the opposite side of the House, will know that start of the hearing is one thing and determination of a case is another. For instance, and I thank my colleague the Attorney General who has provided me with some information, for instance, in 2018, a case is fixed to January 2021, why, because of date suggested by Counsel. Another case of 2018 that is fixed to December 2020 is fixed *pro forma* for mention because of a substitution of Counsel; a case of 2019 that is fixed to 15 December 2020, today, in fact, *pro forma* for mention. So, in fact, the rate of disposal of cases before the Tribunal is far from satisfactory and no blame is being laid at the doorstep of Chairperson or the Assessors. This is how the system works and my colleague lawyers know full well how things drag on and on and on. So, the number of cases is decreasing; the 12-week limit for the termination does not always work. The Tribunal operates part-time, of course, as opposed to a District Court that will be working full-time and, of course, we can always argue as to whether we should provide a fast-track within the District Court, more resources and so on, this can all be debated. But, I mean to say that the argument that the Fair Rent Tribunal would be more efficient and more effective in disposing of cases is not a clear argument, is not a convincing argument to us. Experience will tell.

Likewise, it has been argued that the proceedings before the Tribunal is informal, which is not the case before a Court. Now, I don't know how often my friend, hon. Ramful has appeared before the Tribunal, but my recollections of when I did appear, was that the proceedings were not as informal as one would have hoped. In fact, I have difficulty remembering any significant difference in the way the Tribunal proceeded as opposed to a normal Court of law.

Finally, as regards the issue of experts, of assessors, surely the option of calling expert evidence is always there. Now, representation by Counsel almost invariably - I speak under the correction of all my colleague lawyers in this House - parties assisted by Counsel before the Fair Rent Tribunal and my colleague lawyers of the opposition know this full well. So, let us be very frank and honest about this issue. The theory is one thing and the practice is

altogether different. Do we need to do more; do we need eventually to provide assistance for those who do not have the means to access expert evidence? Yes, we have an open mind; this is something that can be discussed. And as hon. Bérenger said in the debate, I think it was in 2009, about the workings of the Fair Rent Tribunal, let's watch closely, let's monitor and see and learn from experience.

The last point that I would like to address is the argument made by hon. Uteem about the need to protect tenants pending the termination of the case. Now, as I just explained, cases before the Tribunal drag on, so will it really make a difference in terms of the difficulty to the tenant, whether the case is before the Tribunal or is called before a Court of law, I am not convinced. Very often this has been one way in which parties have been brought together to settle cases and, as we well know, most of the cases before the Tribunal are settled by assisting Counsel and I presume this will also be the case before the District Courts.

Mr Speaker having said those words, I wish to assure the opposition as well as Members on this side of the House that, as I said, *aucun texte de loi n'est parfait*, we shall stand guided by experience and we will be open to suggestions that are constructive and positive wherever and whichever side of the House they come from as always has been our attitude.

Allow me before concluding to thank those who have contributed to bringing this Bill before the House. Of course, my officers at the Ministry of Housing and Land Use Planning, the very able staff of the Attorney General office and the Attorney General himself. I wish to express my gratitude to the Prime Minister whose unflinching support allows us to work fast and effectively to bring before the House Bills as required and also to my colleagues of Government and of the majority for their unqualified and unflinching support.

Again, I thank all those who have intervened in this debate on both sides of the House and, Mr Speaker, Sir, thank you very much to you and your staffs for allowing me to proceed unhindered.

With these words, Mr Speaker, I thank you for your attention.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE STAGE**

*(Mr Speaker in the Chair)*

*The Landlord and Tenant (Amendment) Bill (No. XX of 2020) was considered and agreed to.*

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

*Third Reading*

*On motion made and seconded, the Landlord and Tenant (Amendment) Bill (No. XX of 2020) was read a third time.*

**Mr Speaker:** Hon. Members, I suspend the Sitting for one hour.

*At 7.45 p.m., the sitting was suspended.*

*On resuming at 9.08 p.m. with Mr Speaker in the Chair*

**Mr Speaker:** Please be seated! Hon. Lesjongard!

*Second Reading*

**THE CENTRAL ELECTRICITY BOARD (AMENDMENT) BILL**

**(No. XXI of 2020)**

**&**

**THE ELECTRICITY (AMENDMENT) BILL**

**(No. XXII of 2020)**

**The Minister of Energy and Public Utilities (Mr G. Lesjongard):** Mr Speaker, Sir, with your kind permission, I beg to move that both Bills, that is, the Central Electricity Board (Amendment) Bill and the Electricity (Amendment) Bill be taken together and be read a second time.

M. le président, le CEB *Amendment Bill* et l'*Electricity Amendment Bill* sont deux projets de loi très importants mais, en même temps, complexes de par l'aspect technique dont l'objectif principal est de rendre le secteur de l'énergie plus transparent et indépendant; transparent sur le fait que ce sera à la *Utility Regulatory Authority* d'allouer les licences aux compagnies productrices d'électricité ou au CEB et indépendant du fait que ce sera maintenant, M. le président, à la *Utility Regulatory Authority* de calculer les tarifs d'électricité.



Actuellement, le CEB produit, achète, et fixe le prix de vente de l'électricité. M. le président, ce ne sera plus le cas après la promulgation de ces deux lois présentées aujourd'hui au Parlement.

Nous prévoyons aussi que ce sera uniquement le CEB qui pourra vendre directement l'électricité aux abonnés que ce soit pour l'usage domestique, commercial ou industriel.

M. le président, je dois préciser que les deux entités les plus importantes, dont le CEB et la URA ont été consultés et sont d'accord avec les modifications proposées.

Pour mieux comprendre ces deux projets de loi, M. le président, nous devons remonter dans le temps, plus exactement 20 ans en arrière. En l'an 2000, une réforme du secteur de l'énergie avait été lancée en vue d'alléger le fardeau imposé par le secteur de l'électricité sur les finances publiques ce qui a ensuite mener à la création de la *Utility Regulatory Authority* en 2004 avec la présentation de la *Utility Regulatory Authority Bill* au Parlement. Mon collègue, le ministre Alan Ganoo, occupait alors les fonctions de ministre des Utilités publiques.

Et à l'époque, ce projet de loi fort louable avait pour but –

- (1) de mettre sur pied une instance régulatrice;
- (2) d'assurer la durabilité et la viabilité des utilités publiques;
- (3) de protéger les intérêts des consommateurs;
- (4) de promouvoir l'efficacité des opérations en ce qui concerne les utilités publiques, et
- (5) de promouvoir la compétition pour prévenir à toute pratique déloyale, anti-concurrentielle dans le secteur des utilités publiques.

Je dois préciser, M. le président, que la URA devra s'occuper des autres secteurs des utilités publiques, notamment celui de l'eau et des eaux usées. Et, nous comptons ainsi venir de l'avant avec un *Water Bill* et un *Wastewater Bill* en temps et lieu.

En 2005, toujours dans le même souffle, et dans le cadre de la réforme du secteur de l'énergie, le gouvernement d'alors avait présenté et voté l'*Electricity Bill*.

Cette loi cadre régit principalement –

- les catégories de licences à être octroyées, dont les « *generation licence* », « *transmission licence* », « *distribution licence* », « *system operation* » et « *bulk supply licence* », mais aussi
- le processus d'application et d'octroi de ces licences;
- les responsabilités des détenteurs de licences, et finalement
- le besoin de maintenir des comptes séparés pour chaque type d'activité ou de service d'électricité.

Dans le cadre de la réforme du secteur, il était question de créer des entités séparées au CEB pour chaque activité, notamment la génération, la transmission, la distribution, et le *system operation*.

La proposition d'alors était de « *corporatiser* » le CEB et de mettre sur pied des compagnies subsidiaires ; chacune responsable d'une activité distincte.

L'*Electricity Act* de 2005 prévoyait aussi une plus grande ouverture du marché permettant la venue des nouveaux acteurs dans le domaine de la génération de l'électricité. Les opérateurs devraient obtenir un permis à l'*URA* pour pouvoir opérer.

En ce qui s'agit de la transmission et la distribution, M. le président, je me permets de citer mon collègue et ancien ministre de l'Energie qui avait piloté ce projet de loi à l'époque *and I quote* –

« *as regards transmission and distribution, this is most likely to remain for some time under the sole responsibility of the CEB* »

M. le président, le ministre d'alors avait raison d'adopter une approche prudente vu la taille du réseau électrique à Maurice.

Toutefois, M. le président, les intentions ne sont restées que des intentions avant 2016. L'*Electricity Act* de 2005 n'a pas été proclamé jusqu'à ce jour. Je comprends qu'il a fallu attendre que l'*URA* soit prête pour agir en tant qu'entité régulatrice.

M. le président, ce n'est donc qu'en 2016, suite aux amendements apportés à l'*URA* par mon prédécesseur, mon collègue, l'honorable Ivan Collendavelloo, que le conseil d'administration de l'*URA* a pu être constitué.

De 2016 à ce jour, l'*URA* a pris une série de mesures pour débiter ses opérations et je vais citer quelques exemples à commencer par -

- le recrutement de personnel;
- l'adoption d'un plan stratégique pour la période 2019-2022;
- le développement des *regulatory tools*, avec l'aide des organismes internationaux, tels que l'AFD, l'Union Européenne, la Banque Africaine de Développement et permettez-moi, M. le président, de saisir cette occasion pour remercier toutes ces organisations;
- il y a aussi eu l'élaboration d'un *National Grid Code* pour permettre aux producteurs de se connecter au réseau d'une manière bien contrôlée, et d'une méthodologie pour fixer les tarifs;
- il y a eu aussi la création d'une plate-forme électronique pour allouer les licences.

M. le président, je dois aussi souligner que la mise sur pied de l'*URA* a été sujette d'un suivi régulier de la Banque Africaine de Développement. A l'heure où je vous parle, M. le président, la *URA* ne peut opérer du fait que l'*Electricity Act* n'a pas encore été proclamé.

Les amendements proposés au *CEB Act* 1963 et à l'*Electricity Act* de 2005 vont permettre d'harmoniser ces deux textes de lois mais en même temps va permettre le début des opérations de l'*URA* comme organisme régulateur dans le secteur des utilités publiques et aussi l'octroi des licences aux opérateurs du secteur et l'*URA* pourra éventuellement fixer les tarifs.

Il faut souligner qu'il y a eu de nombreux développements dans le secteur de l'électricité depuis l'an 2000. Le nombre de producteurs d'électricité indépendants est passé de 3 à 16 au cours de cette même période mais en même temps la situation financière du *CEB* s'est également améliorée par rapport à l'an 2000.

Vu le nombre grandissant d'opérateurs engagés dans la production d'électricité, M. le président, il est essentiel qu'il y ait une réglementation appropriée. Il est impératif de permettre à l'*URA* de démarrer ses opérations. En ce faisant, nous adoptons une approche prudente et graduelle d'où le besoin d'apporter des amendements aux deux législations.

Il faut aussi souligner, M. le président, que ces deux textes de lois présentés ce soir, font provision de certains amendements spécifiques dans le *CEB Act* et l'*Electricity Act* afin que la *URA* puisse démarrer son fonctionnement. M. le président, en 2004 et 2005, on a largement débattu sur la *URA Bill* et l'*Electricity Bill* respectivement.

M. le président, j'attire l'attention de la Chambre, et je me permets de le faire, que les débats de ce soir doivent être consacrés uniquement à ces amendements.

Mr Speaker, Sir, I will now outline the main provisions of the Central Electricity Board (Amendment) Bill (No. XXI of 2020). Mr Speaker, Sir, let me refer to clause 3 of the Bill. Under section 2 of the CEB Act, the definitions of “authority”, “tariff” and “electricity service” as provided in the Electricity Act 2005 will be added.

At Clause 4, the definition of electricity service will be amended to also include the functions of system operations and procurement of electricity. It is to be highlighted that these two functions are already being performed by the CEB.

To be in line with the Electricity Act, the term “electricity services” will be used instead of “electricity supplies” at section 3 of the CEB Act.

At clause 5, the functions of the CEB, at section 10 of the CEB Act, have been clarified and updated at clause 5 of the Central Electricity Board (Amendment) Bill 2020. Over time, there have been new producers of electricity.

Therefore, this clause of the Bill provides that CEB will be the sole undertaker for the transmission, system operation, distribution and procurement of electricity.

Mr Speaker, Sir, the CEB has been investing massively over the past years to construct and maintain a safe and reliable network to support the socio-economic development of the country.

It is worthy to highlight, Mr Speaker, Sir, that Mauritius has been ranked 13th out of 190 countries which were assessed according to the Ease of Doing Business Report 2020 by the World Bank and we have consolidated our lead position on the African continent. Mr Speaker, Sir, this represents the best ranking ever for Mauritius since the publication of the report in 2007. And one of the key areas of reforms undertaken by Mauritius and recognised by the World Bank relates to “getting electricity at reduced costs and time for a new electricity connection.”

Mr Speaker, Sir, among other functions, the CEB will be required to operate under the sound business principles of the Utility Regulatory Authority.

The CEB will continue to conduct the “demand for and supply of” electricity planning to ensure a secure and reliable electricity supply for the country. It will prepare and set up such schemes as are necessary for the development of the sector.

At clause 6, Mr Speaker Sir, section 20 of the CEB Act 1963 will be amended to remove the power of the CEB to fix the prices to be charged for the supply and sale of electricity. These powers have been vested in the URA since the enactment of the URA Act in 2004. The CEB now, just like any other licensee, will be required to file tariff for each electricity service to the URA, which will then determine the final tariff.

The principles based on which the CEB will have to file tariff to the URA will be provided. These provisions are aligned with those under the Electricity Act 2005.

Mr Speaker, Sir, the CEB, as the national utility body, is often called upon to provide subsidised charges or public service obligations. These factors are taken in account when CEB will file its tariff to the URA.

In addition, in order to ensure the security, reliability and continuity of electricity supply, the CEB operates at losses for some segments of the market. The Act provides that these costs would be taken into account while working out proposed figures to be submitted to the Utility Regulatory Authority.

M. le président, ces amendements quelque peu techniques sont proposés dans le *CEB Amendment Bill*.

Mr Speaker, Sir, I shall now elaborate on the new roles of the CEB after proclamation of the Electricity Act.

With these amendments and after the proclamation of the Electricity Act, Mr Speaker, Sir, the CEB will no longer be the regulator of the electricity sector.

It will no longer grant undertaker's permits as the law currently empowers it to do. These roles would be taken over by the URA. The CEB will now apply for and obtain a licence from the URA like any other independent power producers.

The CEB will have a revised governance structure and operations to meet the requirements of the URA.

Mr Speaker, Sir, let me come to the second Bill before this House tonight which is the Electricity (Amendment) Bill 2020.

As I had indicated earlier, the Electricity Act 2005 has not been proclaimed. We all agree that it is more than timely for the regulator in the electricity sector to start its operations. We are proposing to bring some amendments to the legislation before its promulgation.

M. le président, avec les nouveaux amendements, le secteur de l'énergie va connaître un nouveau dynamisme. Il y aura une démocratisation dans le marché de la production énergétique. Pour la première fois, le secteur va opérer dans un cadre légal. Chacun aura un rôle bien précis. L'*URA* comme régulateur, les opérateurs comme producteurs et le *CEB* qui agira comme producteur, transmetteur et distributeur. M. le président, nous devons maintenir trois aspects important dans la fourniture de l'électricité, la sécurité, la qualité et la fiabilité. Dans cette optique nous préconisons une approche plus prudente pour le marché de l'électricité.

Allow me, Mr Speaker, Sir, to now delve on the main amendments that are being proposed to the Electricity Act of 2005 with a view to harmonising the CEB Act and the Electricity Act and to eliminate the concept of eligible customer and also to clarify some provisions of the Act. At Clause 3, while section 2 of the principal Act allows for the sale of electricity by operators other than the CEB, we are not yet ready to manage such market conditions. Hence, Mr Speaker, Sir, we are reviewing the concept of bulk supply and eligible customer and bringing such amendment to ensure continuity and avoid any market disruption; hence, we are adopting the single buyer model and making provisions accordingly in this Bill.

#### Clauses 4 & 5

The amendments under Clauses 4 and 5 of the Electricity (Amendment) Bill are necessary in the context of the role of the CEB as the sole undertaker for transmission, system operation, distribution and sale of electricity.

No operator can apply for a licence in respect of any of these activities and no licence will be issued by the URA, except to the CEB for such activities. Operators would be granted licenses in the generation segment of the electricity industry.

Mr Speaker, Sir, Clause 6 is warranted to allow for the CEB to submit its financial statement to the URA in accordance with the Statutory Bodies (Account and Audit) Act while other private sector licensees would continue to be regulated by the relevant legislations, namely the Companies Act. The amendment, therefore, allows for proper financial reporting by the Central Electricity Board.

#### Clause 7

Mr Speaker, Sir, an operator or the CEB can be engaged in more than one mode of production of electricity in such a case. The amendment to Section 12 provides that such

entities should keep separate accounts and prepare financial statements in respect of each activity. Moreover, the same requirement applies in the case of an operator which is involved in different utility services, for example, water, electricity or wastewater. We have, Mr Speaker, Sir, further reinforced these provisions at Clause 14 of the Bill where we call upon the CEB to ring-fence its activities, which means the CEB will have to functionally separate its different areas of business that deliver regulated electricity services.

Mr Speaker, Sir, ring-fencing is a requirement across established and well-reputed regulatory bodies across the world.

#### Clauses 10 and 11

A few of the amendments have been made at different sections to reflect the current single buyer model where only the CEB will procure from private operators for sale to relevant consumers, for instance, at Sections 28 and 42.

#### Clause 13

During the transitional period, it will be ensured that CEB will be deemed to be licensed in respect of each activity, namely generation, transmission, distribution and system operation. This is done through an amendment at Section 45 of the Act.

#### Clause 14

The amendments of Clause 14 are brought with a view to reflect the market model being adopted. A new license is introduced, that is, the 'Single Buyer Licence'. As I have elaborated earlier, there are strict provisions for the Utility Regulatory Authority to regulate this activity. The URA would issue guidelines and give directives to the CEB in order to ring-fence the licensee from other licensed activities and to ensure proper independence of its different activities.

The CEB would be called upon to comply with the regulations, codes, guidelines or such other directives issued by the URA. The URA will also ensure that CEB practices non-discriminatory conduct and ensures optimal operation of the electricity system so that it does not compromise the reliability, security and safety of the system.

M. le président, contrairement à la réforme envisagée en 2000 qui préconisait la corporisation du CEB, ceci n'est plus d'actualité. Les activités de production, de transmission, de distribution et d'approvisionnement du CEB seraient *unbundled* et chacune

d'entre elles serait appelée à fonctionner comme des *Cost Centres* distincts, ce qui permettrait d'accroître l'efficacité des opérations.

M. le président, nous considérons que c'est un grand pas dans la bonne direction. Il est temps que la *URA* puisse mener son rôle de régulateur dans le secteur de l'énergie. Elle agira en toute indépendance et transparence comme c'est prévu dans la loi. De la même façon, la *URA* va pouvoir réglementer les activités du *single buyer*. La *URA* va dorénavant déterminer les tarifs de l'électricité.

M. le président, le secteur est appelé, avec la promulgation de ces deux textes de loi, d'entrer dans une nouvelle phase de développement. Nous sommes conscients que l'apport des nouveaux opérateurs dans le secteur de la production de l'électricité seront bénéfiques pour le pays. Il y aura une compétition saine et réglementée. Nous allons aussi avec ces amendements permettre la production de l'électricité à travers de nouvelles sources afin d'améliorer le bouquet énergétique. Il est clair qu'à la fin du jour avec la mise en fonction de la *URA*, nous allons assurer que le consommateur en sortira gagnant.

M. le président, avant de conclure, permettez-moi de remercier le Premier ministre pour son soutien, mon collègue l'*Attorney General*, les officiers de mon ministère mais aussi les officiers de la *Utility Regulatory* et le *CEB* pour leur entière collaboration.

With these words, Mr Speaker, Sir, I commend both Bills to the House. I thank you for your attention

**The Deputy Prime Minister seconded.**

(9.35 p.m.)

**Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière):** Thank you, Mr Speaker, Sir.

Mr Speaker, Sir, reflecting on the proposed amendments to harmonise the Central Electricity Board Act and the Electricity Act of 2005 and the new role and responsibilities of the Utility Regulatory Authority, I cannot myself refrain from going down memory lane thinking about my first job at the CEB in 1969 and the Minister, himself, was an engineer at the Central Electricity Board. My interview, my first impression on the set up and how I realised that the CEB was a jewel in the crown of the State administered by professionals and its remit of providing safe, reliable power to the country which was beyond reproach. It



supported the development of the manufacturing sector, the textile industry in supplying firm and reliable electricity supply at subsidised rate.

Mr Speaker, Sir, what is the situation today, half a century later, the CEB has been taken over by henchmen and acolytes of the previous Minister of Public Utilities and ending in the revocation of its Board. That was the situation very recently.

Mr Speaker, Sir, electricity and energy has now become the lifeblood of all human activities. Without it, we cannot travel, manufacture, farm, work and provide care to the sick and elderly; bank or shop. Needless to add also to the multiple inconveniences when “*pena courant lacaz*” are in the industries nor can we remain socially and emotionally connected across the globe. At no time in known history has the world’s economy and civilisation being so dependent on energy and our energy infrastructures, power, economic, social and physical well-being.

Accessibility and affordability of energy can be considered as a basic human need as well as a commodity of strategic national importance. The Digest of Energy Statistics indicate that in 2018, total primary energy requirement was the equivalent of around 1,586 ktoe, comprising 58.9% of petroleum products, 28.2% of coal and 12.9% of renewables.

Our country is heavily independent on its imports for our total primary energy requirement. Since around 87.1% was met from imported fossil fuels and 12.9% from local sources (renewables).

The share of the different fossil fuels within the total primary energy requirement in 2018 was as follows: coal (28.2%), fuel oil (17.6%), diesel oil (13.7%), gasoline (12.1%), dual purpose kerosene (10.3%) and Liquefied Petroleum Gas (LPG) (5.3%).

In 2018, Mr Speaker, primary energy requirement obtained from local renewable accounted for around 12.9% of the total primary energy requirement, and constituted of hydro, wind, landfill gas, photovoltaic, bagasse and fuelwood. Bagasse remained the main source of energy supply and contributed around 88.1% of the local renewable sources while hydro, wind, landfill gas, photovoltaic and fuelwood accounted for the remaining 11.9%

In 2018, the equivalent of some 2,453 ktoe of fossil fuel comprising petroleum products and coal, were imported. Coal constituted around 32.4% of fossil fuel imports, fuel oil 26.0%, diesel oil 13.6%, dual purpose kerosene 13.0%, gasoline 7.6% and LPG 7.4%.

From 2017 to 2018, the import bill of petroleum products and coal increased by 27.7% from Rs29,406 m. to Rs37,553 m., and accounted for around 19.5% of the total imports bill

With regard to electricity generation, around 79.3% of the electricity generated in 2018 was from non-renewable sources, mainly coal and fuel oil while the remaining 20.7% were from renewable sources of which bagasse at around 14%.

The main energy source for electricity generation was coal (40.2 %), followed by diesel and fuel (39.0 %) and renewable sources (20.7 %).

Obviously, Mr Speaker, Sir, with such a mix, emissions of greenhouse gases for electricity generation are significant. It constitutes almost 45% of the total emissions of the country.

The quick overview of the energy sector clearly shows the importance of the amendments in front of us tonight. Incidentally, Mr Speaker, while we are discussing about electricity sector amendments, there is, indeed, electricity in the air in the whole country. Following certain stunningly unbelievable events that are holding the population spellbound, the electrical charge is even more threatening in Moka these days, the Constituency of the Prime Minister and not to mention Angus Road. I am, of course, not referring to the PV installation especially commissioned and for which people is seeking other details.

Mr Speaker, Sir, these two Bills will restore to the CEB some of the powers which were transferred to the Utility Regulatory Authority in the 2005 legislation and I have always contented that the URA was conferred responsibilities then that are unimplementable in the Mauritian context. It was just a try in 2005. This is mainly due to the nature of our market, lack of competition or outright absence of other city providers and uniqueness of our power sector. I will deal later with the vacuity of some of the amendments proposed in the two Bills because we have been talking about CEB with new role compared to before.

The CEB has suffered for quite some time, iniquitous manipulations at the dismemberment of its fundamental function of its core activities. The CEB suffered from unwarranted interference in its management from henchmen and acolytes of the previous Minister.

For secondary legislation, CEB was carved into segments as corporate bodies are not subject to Parliamentary scrutiny and control. The three companies, CEB FiberNet, CEB Green Energy and CEB Facilities were thus created and have, so far, not added an iota of

improvement. The *modus operandi* is the same each time. *Créer l'urgence et ensuite profiter de l'urgence sans transparence*. How many questions have we not put here: myself, my other colleagues of the Opposition and no answers were given and even sometimes irrelevant answers.

The handling of the purchase of medical consumables and equipment during the COVID-19 epidemic is yet another example of how Members of Government unscrupulously placed the interests of a profiteering few above our common welfare.

Mr Speaker, Sir, I am sure you are not the only one that has to endure the company of these profiteering Ministers. The Indonesia's Social Affairs Minister has been accused of taking bribes while arranging food aid for people affected by the corona virus pandemic. He was allegedly offered 10,000 rupiah in kickbacks; food parcels provided by two of the contractors.

**Mr Lesjongard:** Mr Speaker, Sir, may I?

**Mr Speaker:** Yes.

**Mr Bhagwan:** I am talking about transparency, Mr Minister.

**Mr Lesjongard:** On a point of order, Mr Speaker, Sir. I think...

**Mr Speaker:** Is it a point of order?

**Mr Lesjongard:** Yes, it is a point of order, because I have been listening to the hon. Member. I think he is wandering away from the two Bills which are in front of the House. I did say in my intervention that these are two specific Bills, and I would request hon. Members intervening to talk on the two Bills in front of the House.

**Mr Speaker:** You may continue!

**Mr Bhagwan:** I have noted a few points which the Minister said; transparency, independence, sound management. This is what the Minister said. So, I am taking...

**An hon. Member:** There is only one Speaker!

**Mr Bhagwan:** So, other people can reply; other Members, other Ministers. And that Minister, if found guilty, could face - not him - 20 years in prison and a fine of Rs1 billion...

**Mr Speaker:** But now, you are...

**Mr Bhagwan:** No, I am talking about Indonesia. Mr Speaker, Sir, I was talking about Indonesia. I will come later on.

**An hon. Member:** *Non, li pe dir ressembler inpe!*

**Mr Bhagwan:** Mr Speaker, Sir, we are talking about transparency, public money, and the new role of the CEB according to these provisions. The President of South Africa - I have done my homework - President Cyril Ramaphosa, as at now, there is a wide-ranging investigation into claims of unscrupulous Officials and private companies which have been looting the energy sector. We are talking about the energy sector. Mr Speaker, Sir, I will not go into other activities. More often than any other time, corruption puts our lives at risk and recently, the President of South Africa stated in his National Address “food for the poor, energy for the poor, electricity for the poor, personal protective equipment for the poor”, but not money for the rich and money for those who will profit on the back of the poor. In Kenya also, Mr Speaker, Sir, there also, again, they have been looting the energy sector by billions of rupees and people were sent to jail.

It is not that difficult to convince public opinion and justify the use of public funds when it comes to issues that are largely consensual and in emergency situations. Energy, as well, is an important sector.

The strategic need for the CEB to expand the fiber network to invest in renewable energy or to hold a facilitation company for improving its operational efficiency may be justified. Everybody agrees on that, but what we do not agree is that other people had plans to make money, to use and abuse power when creating that organisation each and every day, first by the *politique met nou dimoun partou*, which is a deadly virus that kills meritocracy. We are talking about the new responsibility of the CEB. Once there was meritocracy. What about now? Governance; the Minister has spoken about governance. I have just noted. Accountability - the new responsibilities; and the Utility Regulatory Authority, in its main responsibilities, is to see to it that there is accountability, there is governance. This has been stated by the Minister in his intervention. They thus make a happy few. Only happy few is enjoying at the CEB and elsewhere, at the expense of whom? Of many; the population.

Second, Mr Speaker, Sir, there are people who have put GPS on procurement. I know what I am saying and everybody knows; GPS. These profiteers keep watch and track *des marchés publics* and we have been learning the scale of interference in tendering exercises through bogus suppliers and joyful bunch of subcontractors. The Minister knows! What about

the CEB? This issue of subcontractors since 2014. What have we not seen? Laying of underground cables. I hope that in its new responsibilities, the Utility Regulatory Authority will query the CEB; not only for the future, over the past, what has happened in all these big contracts. Mr Speaker, Sir, this is how the CEB ended up in spending about almost Rs200 m. on the Combined Gas Cycle Project, which is now shelved. The Minister is aware; public money; Poten Report. The Fibernet Co. borrowed about Rs700 m. from the coffers of CEB. Who are the owners of the coffers of CEB? The public, those who pay the electricity bills; with no progress reported. And I hope, again, the Utility Regulatory Authority will inquire.

The infrastructure, for example, the 132 kv power network and other accessories of CEB could have been hired from the Mauritius Telecom, a body equipped to run the business of internet connectivity. These are things which have happened; the Fibernet company. As for of the Green Energy Company, it has no *raison d'être* as the electricity generated is of intermittent nature and could only be absorbed and transmitted by the CEB network. More importantly, excess green electricity could only be stored by an extensive array of batteries, whose technical reliability is still being assessed in the USA and Europe. The environmental hazards of battery storage system are still a cause for concern, and the CEB facilities, on its part, has invested massively in equipment which lie dormant in their store at Pointe aux Sables and La Tour Koenig. I hope the new Management, the Chairperson of the Utility Regulatory Authority would have a site visit. Have these three entities proven more efficient technically and economically or only for the benefit of the bunch of sycophants walking around the former Minister? The people of this country are deeply outraged that so many quangos are thus paralysed and plundered by these political appointees. Millions and billions of rupees are squandered. The common man goes to the municipal market while the profiteers go to government market, with only one traded commodity: money first. The sooner these bodies are reverted back to the CEB, the better it would be. The new Minister should probably seek the advice of experts in the power sector.

I have heard the Minister stating that one of these three companies would be returning to the Management of the Board of CEB. What are the other two? The call centre and the other one? So, I think the Minister must see to it that these two companies, utilities and the other one, return to the CEB and stand apart as a department within the CEB.

Mr Speaker, Sir, as the two Bills is seeking to amend an Act passed 15 years ago, it is remarkable. It took 15 years to realise that the Act of 2005 is not implementable. The two Bills are peppered with amendments restoring the original responsibilities of the CEB. The

beauty of it all is replacing the word 'licensee' by the word 'Board', the original Board of the CEB. Another clause deleting the words 'distribution system' and to sell electricity to consumers. You see, it is tautological aberration, if you can understand, Mr Speaker, Sir. Does CEB sell other things? Earlier - I think the Minister will remember - the CEB was selling *électroménager*. Those were the days! All this is the past. We all know about these Kenwood apparatus. What is happening now?

Mr Speaker, Sir, one cannot but agree that we need to remove from the Central Electricity Board the powers conferred upon it to grant permits for the supply of electricity and to fix prices to be charged for electricity, and thereby align the Act with the Electricity Act 2005, which gives the Utility Regulatory Authority the power to issue licenses and determine tariff for electricity services.

As I said at the beginning, energy is the lifeblood of all human activities. This sector cannot and must not be managed while wearing and using colourable blinkers and devices. We need to safeguard public interest. Quangos need open source and independent Board members and real CEOs and we rely on the Chairperson of the Utility Regulatory Authority. His past records speak for himself, but the appointment of political appointees, people who have political background, this policy must be reviewed. And I know that the members of the present Regulatory Authority Board are not happy with one member, who has been actively engaged in politics and this had been the subject of a PQ last week by, I think, hon. Assirvaden.

Mr Speaker, Sir, it is pointless to add a new layer in the decision-making process if, at the end of the day, these organisations suffer from chronic political interferences and operate on directives. Sound governance and accountability should be their guiding principle; the success of the Utility Regulatory Authority would rely on its performance, especially with regard to governance, accountability and also independence. More and more citizens around the world are fighting for energy democracy which is a political, economic, social and cultural concept that merges the technological energy transition with threatening of democracy and public participation. The concept is connected with an ongoing decentralisation of energy systems with energy efficiency and renewable energy being used also for a strengthened local energy ownership.

With new green technologies available, such a transition is possibly involving new actors, prosumers, renewable energy cooperatives and municipal and community-owned

power stations which replace centralised power stations. We also need to highlight the responsibility of the energy industry with regard to climate change in terms of mitigation and abatement measures in the energy sector. The long-term energy strategy, according to the third national communication proposed to achieve a 35% renewable energy target by 2025 and maintain it in 2030. Technologies envisaged to reach these targets are energy efficiency and renewable technologies, solar, PV-wind, renewable biomass and the controversial waste-to-energy. Is this scenario realistic? Progress seems slow and even on reverse mode.

The prevailing situation in the sugar sector and the reduction of bagasse production are hampering progress in renewable energy. Independent power producers, who produce around 56.9% of the total electricity in 2018, will require an adequate supply of bagasse if we want to achieve our target. The future of the production of renewable energy with the use of bagasse depends on the future of the cane industry; this is where Government is lagging behind while not taking any decision, which should have been taken months before, even years before.

While we are amending the laws for the proper functioning of the electricity sector we should not underestimate the climate urgency and power producers who cannot avoid the eco-responsibilities incumbent upon them, the more, so far, the CEB which also uses some 350 million m<sup>3</sup> of water to produce hydroelectricity. While water is becoming a scarce commodity during certain periods of the year, should we use alternative renewable sources and spare the water for domestic consumption? Time will surely tell! I am sure that the Minister, from what I have seen, is working on that.

Mr Speaker, Sir, I wish to conclude by stressing on the strategic importance of energy and we must leave no stone unturned to meet our targets on the renewable energy front, as indicated in the intended nationally determined contribution of our Republic. And finally, the success of the Utility Regulatory Authority, I stress again, is its independence, the people at the top level of the Board, the staffs because we have seen over the past years, *prend directive ministère* and, I am sure, knowing the one at the top of the Utility Regulatory Authority, I am sure that he will see to it that there is no interference from the Central Government in giving directives to the Utility Regulatory Authority in the way they conduct their affairs.

I thank you.

**Mr Speaker:** Hon. Ganoo!

(10.02 p.m.)

**The Minister of Land Transport and Light Rail (Mr A. Ganoo):** Mr Speaker, Sir, may I thank you for giving me the floor, to once more contribute to the debate on these two important legislations for the power sector. I would like, at the outset, to congratulate my friend the hon. Georges Lesjongard, Minister for Public Utilities for introducing these two Bills to the House. I have listened to him very attentively when addressing the House on these two Bills, which are of a very highly technical nature, but the hon. Minister has been able, in a very elaborate manner, to simplify the complex provisions in these two pieces of legislations and explain the *raison d'être* of these two Bills.

Mr Speaker, Sir, I have listened to the last orator who just took the floor and I could not make it whether he was against or for the Bill. I did not hear him making any frontal attack against the Bill; he said a few things, some more interesting than others, but finally, he has been in fact beating around the bush and has said nothing, whether he agrees with the provision of these two Bills or not.

Mr Speaker, Sir, as the House is aware, and as the hon. Minister just said it, I had the honour and privilege to introduce the two Bills, the URA Bill as it was then in 2004, and the Electricity Bill which became the Electricity Act; that was in 2005 in the National Assembly as I was then the Minister of Energy.

Mr Speaker, Sir on 15 March 2005, whilst introducing this Bill - I am looking at my speech and I can see the first paragraph of my speech was as follows –

“Mr Speaker, Sir, it is with pleasure and a sense of pride that I am presenting this Bill to the House today. In fact, I am privileged to introduce an innovative piece of legislation which will replace one which dates back to 1939.”

Of course, I am referring to the Electricity Bill.

“The Electricity Bill being presented today is yet another important step taken by this Government to reform the power sector. This Government, ...”.

That is, the MSM/MMM.

“This Government committed itself to implement reform in the power sector with a view to providing a conducive environment for the private operators and also safeguarding the interests of consumers at large.



In November last, this House voted the Utility Regulatory Authority Act. This master legislation for a Multi-Sectoral Utility Regulatory Body set the scene for relevant sector legislation which would be complementary and which would enable the “electricity, water and wastewater disposal sectors to be appropriately blended under a comprehensive legislative framework.”

Mr Speaker, Sir, the two Bills we are dealing with today, the Electricity Bill, the CEB Bill and also the URA Act, were prepared in the context of a long-term plan for the Mauritius power sector –

- (i) to create a financially sound and self-sustainable electricity sector;
- (ii) to create a transparent and fair regulatory environment that appropriately balances the interest of consumers, shareholders and suppliers;
- (iii) to create conditions that promote efficient supply of electricity to consumers and improvement in customer service, and
- (iv) to create a modern power sector with up-to-date organisational and management practices.

Mr Speaker, Sir, there has been a general consensus since year 2000 to create a modern power sector with up-to-date organisational and management practices, leading to the establishment of an independent Regulatory Body and the reviewing of the structure of CEB.

In this respect, the Consultant Arthur Andersen was then appointed to carry out a Power Sector Reform study and advise on the best options to implement the above objectives for the power sector.

The study then opted for the corporatisation of the CEB as a vertically integrated company under the Company Act 2001. This study also provided for further unbundling and creation of more entities. The study, in fact, proposed the enactment of an Electricity Reform Act, and this Electricity Reform Act provided specific provisions relating to licencing of generation, transmission, system operation, bulk supply and distribution functions. It also provided for certain types of tariff methodologies for electric sector undertakings as well as certain rights and obligation of electric sector undertakings.

Mr Speaker, Sir, at that point, the Ministry then also considered in time the water sector reform and appointed the International Finance Corporation of the World Bank to advise on the best reform option, including the regulatory aspects. But the small size of the

water, electricity markets prompted Government to set up a multi-sectoral regulator for the electricity, water and wastewater disposal services to optimise on available resources.

However, Mr Speaker, Sir, the reform of the electricity sector was considered as a priority in view, as the Minister just said, of the very difficult financial situation facing the CEB, given its vulnerability to changing prices of petroleum products as well as the urgent need to implement the capacity expansion plan to meet the sustained increase in electricity demand and to replace the old generating units.

Accordingly, the Government through myself, as being Minister, introduced in the House these two important legislations, I just mentioned, the URA Act 2004 and the Electricity Act 2005 whereby a holder of a generation licence can sell electricity to an eligible customer. The holder of a transmission licence and distribution licence would only transmit and distribute the electricity. This would have led to the liberalisation of the electricity sector.

But, Mr Speaker, Sir, these two legislations were drafted taking into account the long-term vision of the power sector and prepare the ground for the CEB and all the major stakeholders to operate on a level playing field as the net benefit to the consumers getting value for money in terms of high reliability and quality of service. The complete unbundling of the generation transmission and distribution as well as retail sale of electricity was seen to be imperative for an electricity market whereby each operator would had to produce separate accounts to the regulator for transparent cost of operations and tariff setting. The Electricity Act 2005 provides for the URA to be the regulator instead of the CEB and to be the arbitrator as well.

The URA Act, Mr Speaker, Sir, also provides, *inter alia*, for the following –

- (i) the regulator to draw up standards and codes with respect to the quality and reliability of service of each operator;
- (ii) licences to be issued, but also revoked by the regulator;
- (iii) electricity service relates to the generation, transmission, distribution and bulk supply of electricity;
- (iv) the regulator may authorise an eligible customer to receive supply electricity from the hold of a generation or bulk supply licence;
- (v) the regulator shall determine the tariffs;

- (vi) the duration of a licence and its renewal is at the discretion of the regulator, and
- (vii) performance expectations and service delivery of all licensees.

But what happened, Mr Speaker, Sir, was that the proclamation of these legislations was unduly delayed after 2005. A new Government, the Labour Government took over, and from 2005 to 2014, in fact, there was no action taken to pursue the process initiated by the previous Government to modernise the power sector. And during those days, unsolicited projects were still being given high priority despite pressure from all quarters to operationalize the URA. The URA Act was, in fact, only amended in 2008 and proclaimed, but no appointment was made for the Commissioners.

Therefore, the non-operation of the URA had a consequential impact on the proclamation of the Electricity Act passed in the House as far back in 2005. The regulator is expected to be ready with all the subsidiary legislations under the Electricity Act regarding in the first instance the licencing operators and grid codes and standards for the proper running of the regulated power system.

The URA, Mr Speaker, Sir, became operational only after a further amendment was brought to the Act and the appointment of the Commissioners in 2016. The organisation is now ready to start its licencing process and promulgating codes and standards for the regulation of the sector.

Meanwhile, the electricity sector has migrated into a single bio model and many other actors have joined the electricity market through the various schemes initiated by Government to promote the generation of green and renewable energies. These include the SSDGs and the MSDGs, mainly for PV generation.

In this respect, Mr Speaker, Sir, the Electricity Act 2005 has to be aligned with the current market model in order to allow the Utility Regulatory Authority to pursue its goal and objective set in the legislation, that is, the elimination of the concept of eligible customer and converting the bulk supply licence into a single bio licence.

This is why, Mr Speaker, Sir, these amendments are imperative at this stage. The Act is, therefore, being amended to allow the CEB to continue as the historical operator under a single bio model. The CEB will be licenced as a single buyer and no bulk supply licence will be granted by the URA. As such, as the hon. Minister told us, the concept of eligible customer to purchase electricity from any other generator shall not apply.

The CEB Act, Mr Speaker, Sir, is further being amended to remove CEB's role as the regulator to control all electricity supplies and licence generation. Moreover, the CEB will have to file any tariff review to the URA for consideration based on sound financial process, and the URA shall give its determination on tariff by safeguarding the interest of all parties.

In fact, the URA Act, Mr Speaker, Sir, provides for public hearing on consumer matters. The URA will have to publicise its decision on tariff revision, on establishment and amendment of standards for service utilities, on granting and revocation of licences, and so on.

Such dissemination of information, Mr Speaker, Sir, cannot but be vital for the healthy development of the sector concerned and reassure stakeholders of the righteousness of the decisions of the Authority.

Mr Speaker, Sir, the amendments to both the Electricity Act of 2005 and the CEB Act of 1963 will allow the URA to eventually start its licensing operation and the regulation of the electric sector. Sir, these proposed amendments to the CEB Act and the Electricity Act had to be brought to this House. Once the amendments would have been brought to the Electricity Act 2005, as detailed in the Electricity (Amendment) Bill before this House, same would be promulgated hence allowing for the operationalization of the URA and for it to start its licencing and regulatory functions.

I wish to highlight also, Mr Speaker, Sir, from what I have been told that the URA has been gearing up for its operation and has built up its preparedness and the URA has already elaborated its strategic plan and finalised its licencing tools. It has also developed national bid tools, tariff guidelines and methodology to tariff setting. I understand also that an e-licencing platform has further been set up. On the other hand, the CEB Act 1963 will also be harmonised with the Electricity Act following the amendments brought today under the CEB (Amendment) Bill of 2020. It is for these reasons, Mr Speaker, Sir, that I fully support the amendments proposed in these Bills which are essential for us to move to the next step of the power sector reform initiated in 2004 and to allow the URA to achieve full regulation of the electricity services as per its mandate.

I have done. Thank you, Mr Speaker, Sir.

**Mr Speaker:** I will kindly ask the Deputy Speaker to take the Chair.

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

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

(10.18 p.m.)

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

Thank you, Mr Deputy Speaker, Sir, for giving me the opportunity to speak on the Electricity (Amendment) Bill and the Central Electricity Board (Amendment) Bill tonight. In talking about these two Bills, one cannot afford not to talk about the Utility Regulatory Authority, especially its operationalization.

Mr Deputy Speaker, Sir, I became acquainted with the Utility Regulatory Authority affairs because it is part of the Maurice Ile Durable Policy Strategy and Action Plan and it is a policy requirement there, policy code A6 in the Maurice Ile Durable Policy Strategy and Action Plan, a copy of which and the Progress Report I had tabled in this august Assembly when I was freshly elected in 2015. Since then, I have been putting Parliamentary Questions and I have also intervened on the Utility Regulatory Authority (Amendment) Bill on Tuesday 28 June 2016. I had put Parliamentary Questions purely and simply because since its setting up in September 2016, that is more than four years ago, the URA, short for Utility Regulatory Authority, does not have as at date the requisite power to issue licences nor to determine tariffs for the whole utility landscape, i.e. the sectors concerning electricity, water and wastewater. As a matter of fact, during one of my Parliamentary Questions B/116 of 05 April 2016 on the operationalization of the URA, hon. Allan Ganoo who just spoke before me and who, at the material time was a Member of the Opposition, intervened on my Parliamentary Question to state the following, quote –

“So, for it – that means the Utility Regulatory Authority - to become operational in the water sector, we must have a new Water Act or a water legislation or whatever name it will be called (...).”

That was four years ago and I have not heard him talk about the water nor the wastewater tonight though.

*(Interruptions)*

I am going to say it! But it is good to hear that the hon. Minister Lesjongard stated to the House today, some sort of a commitment, that the wastewater and the water piles will come *en temps et lieu*. This is the word that he used, “*en temps et lieu*”. Well, I just hope that we don’t have to wait for another four years because there seems to be some issues in the water and the wastewater sector. *Dilo 24/7* is, for example, one of them, the promised *dilo 24/7* and

also there are some people who are quite confused as to why is it that they pay more of wastewater bills than water bills after they have irrigated their garden because when you irrigate your garden, it does not go in the system and yet they pay more for wastewater bills than water bills. So, we just hope that the Utility Regulatory Authority *en temps et lieu* will start looking at these issues.

Mr Speaker, Sir, as regards the two Bills before us today, I have to mention that last Tuesday on 08 December 2020, I had put the following Parliamentary Question, bearing reference B/996 to the attention of the hon. Minister of Public Utilities and it reads as follows

—

“(…) whether, in regard to the utilities sector, he will state if consideration will be given for proposed amendments to be introduced in the Assembly in relation to the existing legislation pertaining thereto with a view to empowering the Utility Regulatory Authority to exercise its regulatory functions?”

That was my substantive question. Mr Speaker, Sir, the two Bills before the House today, seek to address the concerns raised in my Parliamentary Question.

Mr Speaker, Sir, I dare say my Parliamentary Question has not only proved to be efficient but also effective indeed. With an almost immediate Cabinet decision for the passing of the two amendment Bills which are more than four years overdue. It cannot be a coincidence. Truth is...

*(Interruptions)*

**The Deputy Speaker:** Order! Continue!

**Mr Osman Mahomed:** These are facts and they are undeniable, hon. Minister. Truth is I have always kept...

**The Deputy Speaker:** Order in the House, just allow the hon. Member to continue please!

**Mr Osman Mahomed:** Truth is I have always kept an eye on electricity tariff since my first election in 2014, especially on matters which affect those who are at the lower rungs of the ladder. An example is reported in *lexpress.mu* of 30 September 2015 and I quote, hon. Collendavelloo was then Minister —

“Quelque 70 000 familles, qui consomment entre 110 et 170 kilowattheures (kWh), seront privilégiées par le *Central Electricity Board* (CEB). Leur facture...”

Look at what l'Express has reported. I know you intervened on that one as well.

« Leur facture baissera bientôt de 30%. C'est ce qu'a annoncé le ministre le mardi 29 septembre. Cette décision fait suite à la proposition du député rouge Osman Mahomed de revoir les tarifs imposés aux familles démunies. »

Reported by l'Express. But I know you intervened on that one as well. Mr Speaker, Sir, as I zoom onto the Bills, let me be candid to state that to remove from the CEB the powers to grant permits and to fix the prices to be charged for the supply of electricity to consumers have long been a concern of almost all Governments. It has also been the concerns of the international partners such as the *Agence Française de développement*, the European Union Delegation and the UNDP because of renewable energy component. One of their concerns for the energy sector is to have a proper tariff structure for renewable energy projects such as large scale production of wind and sun energy. Having a proper tariff structure and which is set by a competent and independent body would present a rather more transparent, equitable and consistent approach. In India and in France with *Electricité de France*, they do have such a structure.

The URA is thus pressed to review the tariffs structure to pave their way for the implementation of renewable energy projects being given that our carbon dioxide emissions is on the net rise, as it came up in my Parliamentary question B/995 which I had addressed to the hon. Minister of Environment last Tuesday. Ironically, while the Republic of Mauritius is expected to reduce its carbon dioxide emission by 30% by 2030, in lieu and instead, its CO<sub>2</sub> emission will be increased by more than 30% according to some forecasts. The Republic of Mauritius will achieve the exact opposite of what it has promised at international level and I said it, the main contributing factor for this staggering situation is the production of electricity from fossil fuels and the main culprit is the Government. The truth is our country is not producing enough renewable energy as it should be doing and the absence of a proper tariff structure is but a major obstacle.

Mr Deputy Speaker, Sir, still on the tarification and, as the House is aware, one of the objects of the CEB (Amendment) Bill is to amend the Central Electricity Board Act 1963 to remove from the CEB the powers conferred upon it, to fix the prices to be charged for electricity and thereby allowing the URA to determine tariffs for the electricity services. Mr Deputy Speaker, Sir, it is therefore of essence that I also comment on the need to review the classification of electricity tariff as per the General Notice 516 of 1964, reviewed by the

General Notice 128 of 1987. There are court rulings on these and I would not comment on them by specifically mentioning the names of the companies that appeared as plaintiffs. In that court case, one in particular, the mood point was about the classification of the electricity tariffs. Upon a site visit effected on the plaintiff's premises, CEB unilaterally reclassified the tariff of the plaintiff for electricity consumption purposes as commercial instead of industrial. It is noteworthy, Mr Deputy Speaker, Sir, that for the allocation of the appropriate tariff for electricity consumption purposes to be either industrial or commercial. The officers of the CEB had to rely on General Notice 516 of 1964 which was later replaced by General Notice 128 of 1987. And here, I would like to call the attention of the House on the remarks of the hon. Judge in that case. Quote -

“However, in the present case, clearly the billing has been reclassified, probably well intentioned without the benefit of having the General Notice 516 of 1964 reviewed and updated so as to capture the new activities since its coming into force nearly 50 years ago.”

And the hon. Judge also remarked that, and I quote again –

“I do hope the necessary actions will be taken to review the classification within economic operators.”

In that case, the plaintiff won its case at first instance, but CEB won on appeal. But the crux of the matter, Mr Deputy Speaker, Sir, is that the CEB still relies on a General Notice which dates back as far as 1965 and reviewed in 1987 to determine whether an applicant is to be classified as a commercial consumer or indeed an industrial consumer. In today's modern economy where Artificial Intelligence is making its impact, the officers of the CEB must indeed be having a hard time to work on cases of modern day economic activities with such an old means of classification. And yet, Mr Deputy Speaker, Sir, even though the CEB has had a recommendation on this matter for the last three years or so, as at date, within the mandate of the MSM Government, the Ministry, the URA and the Board of CEB, all failed purely and simply to take any appropriate actions for review exercises.

Mr Deputy Speaker, Sir, as we debate the two amendment Bills, we need to also talk about the important issue of unfair cross-subsidies prevailing in the tariff structure between industrial and commercial sectors. I humbly believe that it has served its time and purposes since the 1960's, at a time when Government policies sought to open up the economy with a view to encourage export processing zone, which, over the years, has undeniably created jobs



and has ensured the livelihood of thousands of families. But, Mr Deputy Speaker, Sir, we are now at the cuffs of the third decade of the 21<sup>st</sup> century, Government policies have changed since then. With the COVID-19 era, it is now about business survival. It is about the promotion of self-sustainability and self-sufficiency. It is about preservation of the small and medium enterprises and it is about saving jobs. By extension, does the hon. Minister and the Utility Regulatory Authority, therefore, deem that the cross- subsidization of the industrial consumers by commercial consumers should now be reviewed because it probably has become redundant?

Mr Deputy Speaker, Sir, I would like to hear from the hon. Minister on this subject later on, maybe, when he will sum up the debate.

A further point I would like to canvass as regard to tariff, Mr Deputy Speaker, Sir, has to do with the provisions of Section 24 to Section 29 of the Electricity Act 2005, more specifically, Section 24 on filing of tariff. In there, at subsection one, every licensee shall file with the authority the tariff or any electricity service that it is providing or it intends to provide in the prescribed form and within such time as the Authority may determine. Is it not a fact since the Utility Regulatory Authority has been set up in September 2016, more than 4 years ago, it has, in substance, remained at a very low profile. I am putting this argument because after having effected a vain attempt to search for the URA's website online, my last attempt was our Parliament Library where I could at long last have a look at the URA's website for the URA's latest annual report; the latest one is year 2017/2018, not 2019/2020, but the one that is dated two years ago. This is the last annual report of the Utility Regulatory Authority available at our Library and on the website of the Utility Regulatory Authority, which I found while reading the report. If you do a simple search of the URA's website online, you do not get it, it's only when I looked at the report and I typed the exact address, then I got it. Maybe, this is something that the URA should revisit, making its website more user friendly to people looking for it.

Mr Deputy Speaker, Sir, it is only there that I could obtain that, you know, the URA website like I mentioned, and from the report I could see that for the last four years there have been interactions between the regulator and stakeholders, but, *per se*, I have not seen any regulatory or enforcement activities or any attempts to do so. But, like I said, the last report I could lay my hands on was two years ago, I hope we will have the opportunity to read the latest reports sometimes soon, so that we can see the achievements of the URA in this 4-year stretch. So, the passiveness of URA, during all these years, has even prompted me

to put a Parliamentary question on the Director of the URA for today, but it has been decided that there will not be any parliamentary questions, but next time for sure, I will put one because I want to know what is happening at the URA.

The pitfall here, Mr Deputy Speaker, Sir, is in the eventuality the URA remaining as it is, in prescribing manner and timeline for the filing of tariff then no licensee will, in effect, be filing same and the issue of determination of tariff will remain a status quo. This is the fear. I would suggest to the hon. Minister that, at least, in that part of the legislation that the timeline be prescribed, be made specific so that we do not have a neither here nor there situation.

Mr Deputy Speaker, Sir, I would now like to touch on governance matters, I am using the word governance, it is the same one the hon. Ivan Collendavelloo used in reply to my Parliamentary Question B/828 of 17 September 2019 on CEB's proposed corporate structure. He said and I quote –

“The CEB has, therefore, no choice but to adapt to the new regulatory environment as provided in the Electricity Act 2005.

This calls for a review of the CEB's governance (...)”

The word governance is there!

“(...) its operating structure and the CEB legislation.”

Yet, Mr Deputy Speaker, Sir, I am surprised that the CEB (Amendment) Bill brought by the hon. Minister before the House today does not include any review of the constitution of the Board of the CEB after all that has happened this year.

Mr Deputy Speaker, Sir, for the first time, perhaps in the history of Mauritius, the country and the people have witnessed a full Board of the CEB being revoked together with the Minister for matters concerning alleged corruption and bad governance. Not reviewing the composition of the Board of the CEB, at this stage, is surely not responsible management of the affairs of the sector, hon. Minister and this is why I urge that section 5 of the CEB Act be revisited in the same vein. As it stands, the purpose of the CEB (Amendment) Bill is to clarify some provisions of the CEB Act and to provide for matters relating thereto.

Mr Deputy Speaker, Sir, since section 5(1)(a) of the CEB Act 1963 which has remained unchanged over the years provide for the constitution of the Board of the CEB to be as follows, I am not going to cite all members, only four of them. It has as requirement –

- (a) a representative of the Ministry of Finance;

- (b) a representative of the Ministry of Economic Planning and Development;
- (c) a representative of the Central Water Authority, and
- (d) 2 members of the Electricity Advisory Committee.

Mr Deputy Speaker, Sir, the constitution of the Board of CEB under section 5(1)(a) is archaic and not in line with today's requirement. First, the Ministry of Economic Planning and Development and the Ministry of Finance are now one and same Ministry. Why should not this be reviewed accordingly?

Secondly, for the last five years, as per my understanding, the Electricity Advisory Committee has not been constituted. Therefore, the Board of the CEB did not have, as per requirement of the law, 2 members of the said Committee on its Board to represent the interests of consumers. So, should the hon. Minister not be doing something about this?

Thirdly, the CEB Act which dates back to 1963 calls for a representative of the Central Water Authority to be on the Board of the CEB and yet no representative of the CEB is on the Board of the CWA. Why should there be a representative of the CWA sitting on the Board of the CEB at all? Importantly, I must highlight that under the URA Act, once the relevant water law will be amended, *en temps et lieu*, like the hon. Minister has said just now which I hope he would sometime soon. The CWA will be a licensee of the URA, so now, section 5(1)(x) of the CEB, there is an issue. So, Mr Deputy Speaker, Sir, I think it is timely that the constitution of the Board of CEB be reviewed because of possible conflict of interests. Now, section 5(1)(x) of the CEB Act also propounds for two other members to form part of its Board with experience in agricultural, industrial, commercial, financial, scientific or administrative matters.

Mr Deputy Speaker, Sir, empirically speaking, this legal provision has opened the door for political representatives to sit on the Board of CEB without valuable professional input over the years and Mr Deputy Speaker, Sir, the St Louis Gate is hence on evidence of the inherent deficiencies in the structure and the constitution of the Board of the CEB. The saying goes the fish rots from the head down to mean that it is the leadership of an organisation which is the root cause of corporate failures.

This is the case of the CEB with the defective leadership of the previous Chairperson of the CEB. I have nothing personal against him. He was the Chairman of the CEB and he was also the Chairman of the freely newly incorporated companies as well as on the Board of Rose Belle Green Energy Limited. It is noteworthy that this matter was the subject of a

Parliamentary Question of mine last week but then it is noteworthy also that, as a matter of fact, I had raised previous Parliamentary Questions to the previous Deputy Prime Minister on governance. An example being PQ B/80 of 2018 on the CEB's subsidiary in 2018 with the then Chairman of the CEB, Mr Seety Naidoo, sitting on the main Board and on the subsidiaries.

Yet, despite undertaking to this House, I think nothing much has been done over there and, consequentially, we have had all the issues that we have had, as you know, Parliamentary Questions have showed and then the St Louis Gate; the last thing the country needs is bad publicity of the magnitude of the St Louis Gate. This is why I would highly recommend the restructuring of the Board of the CEB for section 5(1)(a) of the CEB to be amended, for a more proper updated diversified Board membership to bring objective judgment, effective contributions, dynamism and better stakeholder representations.

Mr Deputy Speaker, Sir, I have even thought about a composition but because of time constraint, I shall keep it for a future intervention or if the Minister want to talk to me about it later, I can tell him my views about a proposed Board composition for the CEB, I have it with me.

Mr Deputy Speaker, Sir, last week, in Parliamentary Question B/997 in regard to the CEB holding 40% shareholding in Rose Belle Green Company Ltd and that Mr Seety Naidoo is still a member of the Board, I have raised yet another governance issue with the hon. Minister whom, honestly, had admitted to the House that he was not aware of but I hope now that he is, necessary change will be effected on that front.

At this stage, let me now call the attention of the House to section 5(3) and sub section 5(e) of the CEB Act 1963 –

“5(3) The following persons shall not be eligible for appointment as Chairman or members of the Board (...)

(b) persons employed or holding an interest in any licence electricity undertaking and the agents or nominees of such persons.

(5) The office of the Chairman or a member of the Board, other than the General Manager, shall become vacant-

(e) where he becomes employed by, or acquires any interest in, or becomes the agent or nominee of a person employed by or holding any interest in, any licensed electricity undertaking.”

Mr Deputy Speaker, Sir, upon my reading of the law, it appears that the Board members of the CEB are not to sit on any other licensed electricity undertaking for obvious reasons, that is, it is the Board of the CEB only who issues permits or enters into agreements with such electricity undertakings at this stage. But the truth is the previous Chairman of the CEB was on the Board of the CEB (Green Energy) Co. Ltd and is still sitting - and I hope the Minister has taken necessary action - on the Rose Belle Green Company Limited like I pointed out last week. Very important, I wonder who history will hold responsible for all these management at its pinnacle of the affairs of the CEB.

Mr Speaker, Sir, I would like to canvass yet another issue and that has to do with the independence of the Utility Regulatory Authority as it is being called to assume the power to issue licenses and to determine tariffs for electricity services.

Mr Speaker, Sir, section 10 of the URA Act - Qualification of Chairperson and Commissioners, subsection (4) -

“(4) Notwithstanding any other provision of this Act, no person shall be appointed as Chairperson or Commissioner or continue to hold office as Chairperson or Commissioner, where –

(d) he is actively involved in politics.”

It is me, not hon. Assirvaden, like hon. Bhagwan mentioned just now, who highlighted this issue in my Parliamentary Question B/998 last week.

I have to state, Mr Deputy Speaker, Sir, that I do not personally know Mrs Jenny Moteealoo, nor do I have anything against her, nor have I even met her for that matter, but we are talking about a very important authority here, the regulator. The fact that Mrs Moteealoo has been actively involved in the electoral campaign of the 2019 General Elections in Constituency no.19, that is only a couple of months before being appointed Commissioner, is a matter any responsible Government or hon. Minister should be looking into and taking action properly.

The URA should not be an independent regulatory authority, but it should be seen to be independent and to act responsibly. This may also open doors for potential appeals

pertaining to the independence and political objectivity of its Board Members. Last but not least, may I make another suggestion for the consideration of the hon. Minister? Under Part V of the un-proclaimed Electricity Act 2005 pertaining to safety, the Act states that the code of practice may be prescribed by the Minister and in compliance of same to be conducted by the inspectorate of the Ministry responsible for public utilities. May I humbly suggest that since the regulator is to be an independent body, that it be the URA that is henceforth the responsible body to prescribe code of practice and not the Ministry of Public Utilities and that the Inspectorate be under the responsibility of the URA to empower the enforcement capabilities of the regulator?

To conclude, I wish to highlight that the main piece of legislation applicable to the energy sector, as we speak, is the CEB Act 1963 and the Electricity Act of 1939. Mr Speaker, Sir, the Electricity (Amendment) Bill being put to this House today seeks to amend the Electricity Act of 2005. Yet it is noteworthy that the Electricity Act 2005 itself has never been proclaimed, I think, the Minister has stated this clearly earlier on, a matter which would have been done back in 2016 along with the Constitution of the URA. The House will recall that I had raised this issue to the then Vice-Prime Minister - hon. Collendavelloo was Vice-Prime Minister at that time - and Minister of Energy in PQ B/374 of 12 July 2016. The House will also recall what hon. Collendavelloo had stated, and I quote –

“As the proclamation of the Electricity Act 2005 - I hope he will clarify - which immediately led to the repeal of the existing Electricity Act of 1939, it is my responsibility to ensure that all the conditions are satisfied for the Electricity Act 2005 to become effective. As electricity supply is highly sensitive, there should be no situation of legal vacuum.”

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

**Mr Osman Mahomed:** A bit of confusion for me. Yes, please?

**The Deputy Speaker:** I have to interrupt. You have been debating for about 34 minutes, just be mindful as to the time.

**Mr Osman Mahomed:** Yes, I have taken longer because hon. Assirvaden, my colleague, is not intervening. So, I am taking his share of the time.

*(Interruptions)*

**The Deputy Speaker:** Order!

**Mr Osman Mahomed:** I have agreed with the hon. Chief Whip!

**The Deputy Speaker:** Order!

**Mr Osman Mahomed:** Yes, it was in the presence of the Leader of the Opposition. You can ask her, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Osman Mahomed, I am sorry, I am not aware of all these things, what I am saying is you have debated for about 34 minutes, I am very mindful to let you speak, but I, being in the Chair, I am telling you that be mindful to conclude.

**Mr Osman Mahomed:** If you insist, I will try to finish.

**The Deputy Speaker:** I am not insisting yet, I am only gently requesting.

**Mr Osman Mahomed:** Okay.

**The Deputy Speaker:** I hope it does not come to insisting.

**Mr Osman Mahomed:** Noted, thank you. That was a bit of a confusion for me, the words, 'which immediately led.' As the Electricity Act 2005 has never been proclaimed - as hon. Lesjongard has confirmed to the House just now, and I will check on the website of the Court as well - therefore, a vacuum has prevailed for more than four years for record sake. The responsibility is now on the hon. Minister of the day to quicken matters in this respect to finally have a full-fledged independent and empowered Utility Regulator, to look not into matters only concerning energy sector, but also the wastewater and the water sector.

I thank you for your attention.

## ANNOUNCEMENT

### **WEEK-END NEWSPAPER - PRESS ARTICLE - PRIVILEGE COMPLAINT**

**The Deputy Speaker:** Thank you very much. Hon. Members, I wish to inform the House that on Monday 14 December 2020, service of a Complaint with Summons was effected upon the Clerk of the National Assembly in relation to a case entered before the Supreme Court in the matter of...

*(Interruptions)*

Order, please! Hon. Minister!

...hon. Shakeel Ahmed Yousouf Abdul Razack Mohamed against Sooroojdev Phokeer, the hon. Speaker of the National Assembly. The matter has been referred to me by Mr Speaker.

Hon. Members, I have considered the matter and I take the view that through the service in the precincts of the National Assembly of the aforementioned Plaintiff with Summons, an offence may have been committed under section 6(1) (t) of the National Assembly (Privileges, Immunities and Powers) Act, which reads as follows –

**“6. Contempt of the Assembly**

- (1) Subject to subsection (2), each of the following acts, matters and things constitutes the offence of contempt of the Assembly’

Subsection (t) reads as follows –

“service or execution in the Chamber or precincts of the Assembly by any legal or judicial process.”

I, therefore, leave the matter in the hands of the House.

**MOTION**

**S.O. 74(4)**

**The Minister of Land Transport and Light Rail (Mr A. Ganoo):** Mr Deputy Speaker, Sir, in the light of your ruling, I move that the matter, whereby service of a Plaintiff with Summons dated 08 December 2020 was effected upon the Clerk of the National Assembly in relation to a case entered before the Supreme Court in the matter of the hon. Shakeel Ahmed Yousouf Abdul Razack Mohamed against Sooroojdev Phokeer, the hon. Speaker of the National Assembly, be referred to the Director of Public Prosecutions for appropriate action pursuant to Standing Order 74(4) of the Standing Orders and Rules of the National Assembly 1995.

**The Deputy Prime Minister seconded.**

*The motion was, on question put, agreed to.*

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

(10.56 p.m.)

**Mr K. Lobine (First Member for La Caverne & Phoenix):** Thank you for giving me the opportunity to speak on these two Bills, Mr Deputy Speaker, Sir.

The main objectives with regard to the introduction of the Central Electricity Board (Amendment) Bill (No. XXI of 2020) and the Electricity (Amendment) Bill (No. XXII of



2020) respectively are to, *inter alia*, bring amendments to the Central Electricity Board Act, and the Electricity Act, with a view to harmonise these two legislations for the proper functioning of the electricity sector, but also to remove from the Central Electricity Board the powers conferred upon it to grant permits for the supply of electricity and to fix the prices to be charged for electricity. And, in line with the provisions embedded in the Electricity Act to give the Utility Regulatory Authority the power to issue licences and determine tariffs for electricity services.

These amendments, Mr Deputy Speaker, Sir, are bringing major changes to the landscape and operation within our energy sector, and I feel that, first and foremost, we should place in the context the importance of our energy sector. Beyond a public health crisis, Mauritius, like any other Small Island Developing States that heavily rely on tourism and imported goods, is facing the harsh impacts of the economic downturn triggered by COVID-19. Mauritius depends on imported fossil fuels to power its economy.

Mr Deputy Speaker, Sir, 84% of the nation's primary energy requirements are met by imported fossil fuels like oil and coal. The energy sector alone accounts for 62% of Mauritius total greenhouse gas emissions. In line with the Climate Change Act, by 2030, the country aims to have 35% of its electricity produced by renewables. To make this a reality, Mr Deputy Speaker, Sir, Mauritius has to embark on a journey towards a low carbon economy. With the support of the United Nations Development Programme, funding from the Green Climate Fund, and in partnership with the *Agence Française de Développement*, the objective is to increase our country's share of renewables to strengthen the existing power grid.

Mr Deputy Speaker, Sir, the economic crisis triggered by COVID-19 reinforces the urgency of the country's climate targets and provides an opportunity to kick-start the pillars of our economy with less reliance on fossil fuels. Mr Deputy Speaker, Sir, in order to meet those objectives, I do not, in my humble opinion, feel that piecemeal amendments being brought before this House will suffice. This country needs an omnibus legislation that will take into account the growing and fundamental importance of our renewable energy sector.

Mr Deputy Speaker, Sir, three reasons why Mauritius needs to rethink and harmonise various legislations related to our energy sector is, firstly, clean energy is an engine for job creation and poverty alleviation. The production, installation and maintenance of renewable energy equipment from solar panels to batteries and wind turbines create new jobs. In 2018,

for example, Mr Deputy Speaker, Sir, a record of 11 million people worldwide were employed in the renewables sector and the International Renewable Energy Agency estimates that this number could rise to 42 million jobs globally by 2050. Boosting investments will help open up new employment opportunities in Mauritius as well.

Secondly, affordable and clean energy is critical for Mauritius to meet its climate targets and adapt to the impacts of climate change. The climate crisis remains a global emergency. Increasingly severe and frequent cyclones, rains, floods are already threatening people's livelihoods in some parts of the country. Clean energy technologies can provide cost-effective and sustainable solutions that will help vulnerable communities to prepare and adapt to these impacts and recover in the aftermath of COVID-19.

Mauritius has pledged, Mr Deputy Speaker, Sir, to be part of the UNDP's climate promise and renewable energy will be central to enhance the country's nationally determined contributions. If successful, our country's energy transition project is expected to significantly contribute to the country's greenhouse gas emissions reduction targets.

And, thirdly, clean energy increases our country's energy security. For island nations like Mauritius, Mr Deputy Speaker, Sir, boosting the ability to produce their own energy helps to increase energy security. Oil prices are not only highly volatile, but supply interruptions and shocks to the global energy system can have devastating consequences. In the aftermath of COVID-19, Mr Deputy Speaker, Sir, reliable electricity will be key to support businesses and boost the economy. As it stands, our energy sector has, as major players, the following. It is important for us to point out those institutions playing within the energy sector. We have been talking in the House about the Utility Regulatory Authority. This Authority has been set up in 2016 in accordance with the Utility Regulatory Authority Act 2004, to regulate utility services, namely electricity, water and wastewater. And the amendment being brought will enhance its powers and functions. We have got also the Energy Efficiency Management Office, which has been set up under section 4 of the Energy Efficiency Act 2011, with the objectives, amongst others, of promoting awareness for the efficient use of energy as a means to reduce carbon emissions and protect the environment.

The functions of this institution in particular is to implement strategies and programmes for the efficient use of energy, establish links with regional and international institutions and participate in programmes pertaining to the efficient use of energy.

Then, Mr Deputy Speaker, Sir, we have got the Central Electricity Board, a parastatal body empowered by the Central Electricity Board Act 1963 and the CEB's business is to prepare and carry out development schemes with the general object of promoting, coordinating and improving the generation, transmission, distribution and sale of electricity in Mauritius.

**The Deputy Speaker:** Excuse me! I would request Mr Speaker to take the Chair now.

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

**Mr Speaker:** Please be seated. Hon. Lobine!

**Mr Lobine:** Thank you, Mr Speaker, Sir. Earlier on, I was elaborating on institutions falling under the energy sector and I was talking about the Central Electricity Board. So, as I mentioned earlier on, the CEB produces around 40% of the country's total power requirements from its four thermal power stations and ten hydroelectric plants and the remaining 60% are being purchased from independent power producers.

Amendments being proposed will obviously compel Government to review the functioning and role of the Central Electricity Board thus the importance of having a holistic approach and a broad consensus to introduce an omnibus legislation for the energy sector. Do we still need a Central Electricity Board or now do we need a new Central Energy Board because the whole concept of electricity is being viewed differently. We are talking about energy these days around the world. So I invite the hon. Minister to kindly consider reforming the Central Electricity Board and take into account proposals for the creation of a new Central Energy Board.

Then we have the Mauritius Renewable Energy Agency. It was enacted in 2015. It was created, Mr Speaker, Sir, to oversee the development of renewable energy in Mauritius. It is responsible to promote renewable energy and create environment conducive to the development of renewable energy in Mauritius.

Why I have gone at length at pointing out at those institutions, Mr Speaker, Sir, because as it stands the energy sector is regulated with a foreign legislation. We have got the CEB Act. We have got the Energy Efficiency Act. We have got the Mauritius Renewable Energy Agency Act. We have got the Electricity Act and we have got the Utility Regulatory Authority Act. That is why we need more to press upon for the introduction instead of amendments to the existing legislation and omnibus legislation. By vesting powers to the

Utility Regulatory Authority with the amendments proposed to give this authority the powers to determine electricity tariffs, it will also oversee contracts that the independent power producers will eventually venture to renegotiate at the expiry of their power purchase agreements; the independence of these institutions and its accountability process is of paramount importance.

Mr Speaker, Sir, as at present, does the URA have the required manpower and competence to deliver in all transparency bearing in mind that the URA has also the responsibility of acting as a regulator for the water and wastewater sectors? I have my doubts, Mr Speaker, Sir, but, understandably, I know that the hon. Minister of Energy and Public Utilities will ensure that there is a proper functioning of this authority and transparency shall be the key word at this authority.

Mr Speaker, Sir, we shall also await eagerly the introduction of the Water Bill and the WMA bill as canvassed by the honourable Minister earlier on. I shall thus advocate that more attention in terms of financial support, human resources be provided to the URA and to avoid appointing political nominees in as much as the URA is also an important role to play in protecting consumers, producers, but also prosumers now.

Mr Speaker, Sir, with the amendments being proposed, one of the major *manquements* if I may phrase it like that is that no mention, whatsoever, is made to the priority to be given to renewable energies. Also, there is no mechanism in place for prior consultation nor any protocols to be established with the URA to consult the Energy Efficiency Management Office nor the Mauritius Renewable Energy Agency and I tend to share values and opinions of the expert in the energy sector, Mr Kalilelail canvassing that, instead of moving for amendments to the CEB act and the Electricity Act, we should more downwards *une vraie révolution énergétique*.

To that effect, Mr Speaker, Sir, to bring *une vraie révolution énergétique*, I shall humbly invite the hon. Minister, instead of these amendments which are important amendments, to come forward with what I am canvassing an omnibus legislation similar to what shall be introduced in Germany in the coming days, a legislation that is being hailed as Germany's landmark Renewable Energy Act credited with making solar and wind power, two of the most important electricity sources in the country. This new law shall make renewables grow faster, become cheaper and more accepted to the citizens of Germany so that climate and clean energy targets can be reached. This new landmark Bill, which is due to

be passed by the German Parliament on 17 December 2020, in few days, will come into effect on 01 January 2021. They call it the EEG 2021 and it is staying true to the Act's basic principles of making renewable power producers more market ready by sticking to renewable tenders while incorporating new developments.

Mr Speaker, Sir, I shall thus conclude by inviting the hon. Minister to have a look at this brilliant piece of legislation coming into force in Germany, a country that we should emulate in terms of advancement in their laws to give renewable energy *sa place de prédilection* in our ever-changing society due to the climate emergency that we are all facing.

These two pieces of legislation, the amendments being brought, are important and I welcome those amendments being made, but I am canvassing, that instead of bringing amendments now and then to this House, to bring a substantive piece of legislation that will look at the energy sector in a more holistic and harmonised approach.

So, I venture to call upon the good office of the hon. Minister to kindly read this piece of legislation from Germany and if we could bring to this House such piece of legislation that will help the debate and that will help the energy sector of this country.

Thank you, Mr Speaker, Sir. I am done.

## ANNOUNCEMENT

### METRO EXPRESS LIMITED - RIDERSHIP

**Mr Speaker:** Hon. Members, at the sitting of the House last Tuesday, the hon. Xavier Luc Duval made a point of clarification on the issue of the daily ridership of the Metro Express arising from a statement made by the hon. Minister of Land Transport and Light Rail.

The hon. Member also raised an objection to the use of the word 'doom- mongers' that the hon. Minister said in his statement.

I, therefore, rule: the Minister may make a statement to clarify the issue in due course and, secondly, I am also inviting the Minister to withdraw the word 'doom- mongers'.

**The Minister of Land Transport and Light Rail (Mr A. Ganoo):** Mr Speaker, Sir, I withdraw the word 'doom-mongers', but I maintain the contents of my statement and I may make a statement in due time.

**Mr Speaker:** Thank you. Hon. Dhaliah!

(11.15 p.m.)

**Mr R. Dhaliah (Second Member for Piton & Rivière du Rempart):** Mr Speaker, Sir, I thank you for giving me the floor to bring my contribution to the debate on two important pieces of legislation, namely the Central Electricity Board (Amendment) Bill and the Electricity (Amendment) Bill. These Bills govern the production, supply and sale of electricity in the Republic of Mauritius. Players in this industry are called upon to play a pivotal role in enhancing our power generation capacities to meet the ever growing energy demand and accordingly modernise the landscape of this industry. Here, I wish to avail of this opportunity to extend my congratulations to hon. Lesjongard, Minister of Energy and Public Utilities for bringing the necessary amendments to these legislations with the objectives of paving the way for a quantum leap in the generation, distribution and sale of electricity in the country.

Mr Speaker, Sir, we need a paradigm shift in the way we think about our energy supply. We must learn to look at our energy supply system from a different angle and find innovative and sustainable policies and strategies that will help to provide effective and efficient energy services to the customers.

The amendments proposed in the legislations are aligned with the vision of this Government under the able captainship and guidance of hon. Pravind Kumar Jugnauth, Prime Minister. He is a man of word and action and places the well-being of the population at the top of his agenda. He always adheres to the promises he makes to the population. He has always fulfilled the pledges he made to the nation. Let me remind the House of the pledge this Government made at paragraph 114 of its 2020-2024 Programme, I quote –

“Government will support the Utility Regulatory Authority for the implementation of a regulatory framework for electricity and will review the governance structure and operations of the Central Electricity Board to enable it to respond to the requirements of the Utility Regulatory Authority.”

This is yet another major achievement of this Government in the implementation of its programme in roughly one year of its mandate. We have about four more years to go and we will still have more to achieve. The people of this country will judge the persons they have voted to represent them in this august Assembly, certainly not by their demagogies or hollow and negative criticisms or by their anti-democratic behaviour and numerous walk-outs, as it has been the case from hon. Members of the other side of this House. The population will

rather judge us by the actions and decisions taken by this Government to improve their quality of life and bring the country to new heights.

Mr Speaker, Sir, I will now turn to the various reforms that the energy sector has witnessed over the years. The Power Sector Reform was initiated in the late 1990s and the Consultant, Arthur Anderson, was appointed by the Ministry to make recommendations on the best reform option. The Power Sector Reform was prompted by the dire financial performance of the CEB which, at that time, was very vulnerable to adverse fluctuations in market prices of petroleum products such as heavy fuel oil and coal in addition to fluctuations in exchange rates. The reform objectives were to liberalise completely the power sector to support the generation side. In this regard, it aimed at attracting investors to implement the capacity expansion plan, introduce the latest technology and regroup management expertise at all levels with a view to improving productivity and reduce cost. In this context, the consultant recommended the setting-up of a regulatory body for the sector and accordingly remove all regulatory functions from the CEB which was simultaneously acting as judge and party in negotiations with the IPPs. Subsequently, the CEB Act was to be repealed and the CEB converted into a vertically integrated private company under the Companies Act. Draft legislations were drafted to set up the regulatory body and to repeal the CEB Act.

Mr Speaker, Sir, in early 2000, the new Government decided to appoint the International Finance Corporation (IFC) of the World Bank to advise on the Water Sector Reform. The objectives were similar to that of the power sector, that is, to look for a strategic partner to improve the overall management of the water sector and to introduce technological advancements with a view to ensuring a reliable water supply all year round particularly in the dry season. The IFC also reviewed the regulatory aspects of the whole utility sector. Given the relatively small size of the Mauritian market, the setting-up of a single regulator for the electricity services, water services and wastewater disposal services was favoured by the Government. However, the regulation of electricity services was prioritised in the first instance. The URA Act and the Electricity Act were drafted on these principles and passed in 2004 and 2005 respectively. The Electricity Act provided for the liberalisation of the electricity sector to enable power producers such as IPPs to sell electricity to any eligible customer in addition to the CEB. The Electricity Act also provided for a number of bulk suppliers other than the CEB to purchase electricity from any generator for subsequent resale to the CEB. The CEB would then be the only seller of energy to the population.

However, following the change in Government in 2005, no serious action was taken to set up the regulator. The priority of the then Government was shifted towards unsolicited power projects such as CT Power, Waste-to-Energy and Sarako. With mounting pressure from the World Bank and other funding agencies to set up the regulator and proclaim the new legislation, minor tweaks were brought to this URA Act 2004 to facilitate the appointment of the commissioners and the Act was accordingly proclaimed in 2008. Notwithstanding the proclamation of the URA Act 2004, there was still no serious undertaking from the then Government to appoint the Commissioners and set up the regulator. On the contrary, the CT Power Project was prioritised and Singaporeans Consultants were appointed to again advise on water sector reform, but again with no concrete actions.

M. le président, le ministre et le gouvernement ont pris la bonne décision en ce sens. Imaginons une compagnie privée qui vend de l'électricité aux consommateurs, que ce soient les usagers domestiques, industriels et commerciaux et ces consommateurs se retrouvent sans électricité. Il est important pour l'État de prévoir ses différents schémas. C'est un trop gros risque de laisser un service si essentiel comme l'électricité entre les mains des compagnies privées. D'un point de vue personnel, notre petite île Maurice n'est pas prête pour cela.

Permettez-moi, M. le président, de remonter 15 ans en arrière, lors de la triste campagne électorale de juillet 2005. Il est important que je rappelle ce triste épisode parce que la situation de nos concitoyens aurait été complètement différente si certaines personnes avaient respecté leur parole. Une partie importante de la démocratisation de l'économie concernait l'énergie et il y avait toutes sortes de déclarations sur le prix que le CEB payait aux *IPPs*. Un *Utility Regulatory Act* avait déjà été voté au Parlement mais le parti Travailliste n'a jamais promulgué cette loi. Pourquoi ? La démocratisation de l'économie n'était qu'une parade électoraliste. Il n'y a pas eu quelque chose de concret sur l'énergie et aujourd'hui, c'est ce gouvernement qui vient mettre de l'ordre dans le secteur afin qu'il y ait un control indépendant dans le prix que le CEB paye pour l'électricité.

Mr Speaker, Sir, I wish to remind the House that it was only in 2016 that the URA became operational with the appointment of its first commissioners. The URA has developed its strategic plan with the assistance of the African Legal Support Facility of the African Development Bank. The required staff profile was recruited and trained with the assistance of other partners in the sector. The URA has further developed its licensing framework for the operators. Meanwhile, the financial indicators of the CEB had improved and many actors had joined the market, particularly the renewable energy suppliers; the latter will increasingly



contribute to promote a greener island in line with the vision of this Government, as enunciated in his Renewable Energy Strategy 2030.

The CEB accordingly pursued its role as a single buyer and is deemed as the most appropriate model for a small power system. Subsequently, the previous Electricity Act of 2005 no longer portrays the modern market realities. In order to ascertain the competitiveness and sustainability of the electricity sector, the Act of 2005 has to be updated. This will ensure that the country continues to benefit from a reliable electricity supply to meet the surging energy demand. The Act is, therefore, being amended to recognize the CEB as the historical operator and single buyer. The CEB will be licensed as a single buyer and the bulk supply license will be removed. As such, there will be no eligible customer to purchase electricity from any other generator.

The CEB Act is further being amended to clarify the role of the CEB as it will no longer be in control of the electricity supplies and licensed generators, as it has been the case since the liberalisation of electricity generation in the country. There is also the need to clarify the role of the CEB in the determination of electricity tariffs. The URA will now take over CEB powers to fix tariffs. Instead, the CEB will have to file any tariffs review to the URA based on sound and transparent financial principles. The URA will determine the tariffs while safeguarding the interests of all partners. The amendments to both the Electricity Act of 2005 and the CEB Act of 1963 are imperative to enable the URA to start its licensing operations and, more importantly, to ensure continuity under the prevailing situation, that is, the CEB will not operate under a corporate status as it was the intention in 2005.

Mr Speaker, Sir, I would conclude by stating that the amendments in these two Bills are geared to bring explicit clarifications on the roles and responsibilities of the Utility Regulatory Authority as a regulator and the Central Electricity Board as a supplier and distributor of electricity in the energy sector. These amendments are of paramount importance in the name of good governance because one single institution cannot be empowered to be judge and party at the same time. In addition, these amendments are meant to safeguard fundamentally the interests of the consumers.

Mr Speaker, Sir, I fully support the amendments proposed in these Bills. Thank you, Mr Speaker Sir. Long the Republic of Mauritius!

**Mr Speaker:** Hon. Collendavelloo!

(11.29 p.m.)

**Mr I. Collendavelloo (Third Member for Stanley & Rose Hill):** Thank you, Mr Speaker. Let me start by heartily congratulating the Minister of Energy for introducing these two Bills in the Assembly. As the Minister said and as hon. Ganoo said, these Bills are, in fact, the continuation of a process which started 20 years ago or perhaps even 30 years ago, as hon. Lobine, I think, said.

The whole purpose of this exercise is to ensure fairness. Fairness and good governance; and I shall come back to what hon. Mahomed has as concept of good governance. But we want the energy sector, the electricity sector first to become a level playing field and, of course, that will lead to the enhancement of alternative sources of energy such as renewable energy.

I would like first of all to put this Bill in its historical perspective. There is a very small power station in Réduit. In 2014, Dr. Beebeejaun was then the Minister of Energy. He caused that very small power station to be renamed Amode Ibrahim Atchia Hydroelectric Power Station. Major Atchia was not a Major at all in the Army; he was called Major because he had inherited from his Gujarati father a sense of authority and a sense of duty also and of doing things. He single-handedly rebuilt the mosque of Rose Hill after the 1892 cyclone; he introduced wind energy in Mauritius as far back as the 19<sup>th</sup> century; saw mills, timber yards, ice factory; all this he did, but he is better known for what he did in Réduit. He created a dam in a small river; he built a generating plant and then he transmitted electricity to *Château Le Réduit* and then to Rose Hill to his house and to the neighbourhood.

Therefore, he generated electricity, he built the power plant, he transmitted the electricity, and he built for the electricity which he was selling; only one person and his two brothers - Hossen and a third one. Then, Wikipedia says of him that he set about making unprecedented contributions to laying down the foundation of Mauritian society during the early 1900s, and I also read and I commend the reading of an article of Mr Cader Kalla in *Le Mauricien* of 08 December 2011 on “Gandhiji’s hosts - “diasporic trajectories”: The Gujarati Merchants - a powerful economic days.”

When I learnt of what Dr. Beebeejaun had done in 2014, I was aware of this. In the beginning of 2015, I discussed with the Chairman, Mr Naidoo, whom hon. Mohamed does not have a great liking; he does not have a great liking for people of this Government in any case, it is his right, of course, and the new General Manager Mr Hébrard, and they told me they wanted to put on record the history of electricity. And Professor Serge Rivière, a

Professor Emeritus of the University of Limerick in Ireland wrote a book which was launched in December 2015, and in that book, we have the fascinating history of electricity. Do we realise that electricity was first produced in Mauritius in 1865 from gas by the Mallac brothers and do we realise that there were only three towns in the world that were using electricity in that year? Curepipe, Paris and New York. Then came the *Hôpital Civil* and the *Théâtre de Port Louis*. The operators were many; Fanucci, Adam - this is what I read in the book -, Coutanceau, Patel, Yacoob Ramjan. All these people were innovators and that led to the creation of numerous independent power producers that became companies and they were nationalised when the CEB was incorporated by an Ordinance, the Central Electricity Board Ordinance of 1952 - Ordinance No.79 of 1952.

From then, electricity became a State monopoly. Although in 1957, Saint Antoine Sugar Estate and later Fuel, Savannah, Medine, Riche en Eau, Bois Chéri also started selling power to the CEB. They produced electricity and they sold power but the tariffs were fixed by common agreement with no determined procedure and CEB had the monopoly and still has or, at least, until 1991 had the complete monopoly over the sector. And by 1961, 15.5% of generated energy units were contributed by sugar estates.

This has led to vast possibilities of conflict of interest. The CEB negotiates contracts, sells electricity, determines the tariffs, determines everything and that is not very healthy. This is why in 1991, the Government of the day came up with the Bagasse Energy Development Project and that was to ensure the viability of the sugar industry. Hon. Ganoo has quoted that. The consultant Arthur Andersen recommended the setting up of the URA and, in 2004, hon. Ganoo caused Parliament to enact the Utility Regulatory Authority Act and the new Electricity Act.

Unfortunately, one month later, the Assembly was dissolved and it was not proclaimed. And as from 2005 until 2015 - I heard hon. Mahomed talking, he talks well but between 2005 and 2015, nothing was done by his party. He was of good faith; he was working in Maurice Île Durable, I know I have seen files, he was hard working but as he says the fish rots from the top and from the top the rot was setting in. You know, he quotes Maurice Île Durable and in his PQs, he referred to Professor De Rosnay. Let me quote, Professor de Rosnay, 21 May 2014 in l'Express.mu –

« (...) *je suis déçu, frustré et inquiet.* »

« *Côté gouvernement, (...)* »

*Gouvernement de Ramgoolam là!*

*«Côté gouvernement, malgré un affichage médiatique et politique parfois important, des actions en profondeur ne sont pas entreprises, on se contente d'annonces dépourvues d'un suivi pratique . »*

This is what hon. Mahomed was doing at MID at that time between 2005 and 2014.

*(Interruptions)*

**Mr Speaker:** Order!

**Mr Collendavelloo:** And he blames Mr Naidoo. As from 2015, we got to grips with that situation. He invokes the Code of Corporate Governance. Has he read the Code of Corporate Governance? Since when the Chairman of a company cannot be the Chairman of a subsidiary? Where does he get it from? Of course, he is entitled to this view. I acknowledge this as being a proper view but he should not say that this is as if the law. He should be a bit careful; he's a very good engineer but he should be careful when he speaks. Engineers are there to...

*(Interruptions)*

And his personal grudges...

*(Interruptions)*

**Mr Speaker:** Order!

**Mr Collendavelloo:** On Mrs Mootealoo, again I shall ask him to read the law; read his law.

**Mr Mahomed:** On a point of order. I said in my speech, I don't have anything personal against her.

**Mr Collendavelloo:** That is not a point of order. This is not a point of order; this is a point of clarification.

**Mr Speaker:** (...) hon. Member!

**Mr Collendavelloo:** I take his point though, I take his point, he said he doesn't know her but this is a personal attack; has he read his law before he talks in Parliament? See what the law tells you; section 10(4)...

*(Interruptions)*

**Mr Speaker:** Hon....

**Mr Collendavelloo:** ...of the Act tells you. You cannot be a Commissioner, that is, a member of the authority. No person shall be appointed as member authority if he is actively involved in politics. In the past, that person has been involved in politics. So, that makes her disqualified to be forever a member of the authority? No, we should not be misleading the public. On all counts of his speech, it is a constant misleading of public opinion.

Let me come to hon. Bhagwan. He has...

*(Interruptions)*

**Mr Speaker:** Quiet!

**Mr Collendavelloo:** He has a lot bitterness in his talk on CEB subsidiaries. Since 2000, the consultants on the Power Sector Reform Project have said CEB cannot continue to grow as a monster. as hon. Ganoo, I think it was, said or hon. Lesjongard, CEB must split its operations and this is how - the subsidiaries were not created in catimini. The subsidiaries were created in Parliament and there was nothing secret, not like the subsidiary that, he is no longer here, so, I will not mention his name when the ex-Chairman of the CEB created the CEB subsidiary of CT Power.

*(Interruptions)*

**Mr Speaker:** Order!

**Mr Collendavelloo:** Do you know? They said they created a subsidiary, CEB Investment Company Limited, engaging CEB's funds to contribute 26% of the capital to CT Power without even going to Cabinet and he was proud, I have found in Mauritius Times of 27 August 2010. He does not know what he says. This is hon. Assirvaden when he was Chairman of CEB, *Mauritius Times* 2010 –

*« La vérité que effectivement, la participation du CEB dans un projet privé à la hauteur de 26% est une grand première et je suis fier (...) »*

*Qu'un couyon.*

*« (...) je suis fier d'avoir pu contribuer à une telle réalisation (...) »*

*On est fier avec l'argent des autres.*

*« (...) mais il n'y a pas que la participation de 26%, (...) »*

Here what he says; he takes the money of the CEB. CEB will take –

“(…) les risques concernant les emprunts, les taux d’intérêts, sont partagés (…)”

So, CEB was to give money to CT Power and assume the risks of that project. Do you know what would have happened if the people had not voted for l’Alliance Lepep in 2014, catastrophe for Mauritius.

The FiberNet, hon. Bhagwan speaks about. Hon. Mahomed asked me PQ B/685 on 30 July 2019. He should know; he was in *Maurice Ile Durable*. In 2001-2003, hon. Ganoo was the Minister. The Government at that time, made CEB build a network - it is called OPGW - over the transmission lines of CEB in order to use it and it is called optical ground wire network. It was the Ministry of Information Technology, Communication and Innovation which, in 2015 initiated the proposal. They proposed to CEB to put that network to good use, it was being used at 5% of its capacity. I have said that in my PQ. Hon. Osman Mahomed remembers because he has a list of each PQ and so have I.

So, 5% being used to capacity was sitting in *Maurice Ile Durable* doing nothing for between 2000, it is not for no reason that they paralysed the URA because with this new Bill, if they had passed it, - they had ten years to do it - they could not abuse CEB as the milking cow as they did during the ten years in power. This is how Fibre Net started and Fibre Net is a good idea. It is going to improve the internet network.

*(Interruptions)*

**Mr Speaker:** Order! Order please! Hon. Dhunoo, please behave yourself! You may continue, hon. Member!

**Mr Collendavelloo:** That is why and it is important to understand why the URA was shelved in 2005. The CFL *ampoule* scandals would not have occurred with this new Bill. The Chairman was personally responsible for that order, he signed the documents. And do you know what they did? They used the then General Manager as scapegoat, they suspended him, they hold him before a disciplinary committee, before a Judge and he was declared innocent but nobody took action against the person who had signed. The innocent person, they had to reinstate him, he was rehabilitated under our Government because they did not like the URA.

Gamma-Covanta, without any tender procedures or bidding process, secret contract awarded direct. Pointe Monier in Rodrigues, the CT Power Scandals and CT Power, the Privy Council vindicated me after the decision which Government took to shelve the CT Power

Project. I am astounded by hon. Osman Mahomed, perhaps it is the time at which he spoke; he usually speaks in the afternoon. But he blames the URA for not having filed the accounts of 2019 and 2020. 2020 is not yet over! Surely, even an engineer who has worked at the MID knows this. How can they file the accounts? But does he remember that when we took over in 2015, we discovered that since 2013, the accounts of CEB had not been tabled before the Assembly. I took it.

*(Interruptions)*

But the cherry on the cake...

*(Interruptions)*

**Mr Speaker:** Hon. Members, if you continue to provoke me, I will suspend the sitting. Continue hon. Member!

**Mr Collendavelloo:** No, please let me finish first. Thank you, Mr Speaker. What hon. Uteem termed as criminal activity employees' contribution to pension funds. We talk of pension, there is a huge debate, etc... and they are fuelling this debate. Do you know what they did? Under the Chairmanship of hon. Assirvaden, employees were paying their contributions every month from their salary, thinking that they were contributing to their pension funds. Do you know what he was doing? *Capter l'argent!* Pocketing that money and putting it in CEB's running expenditure accounts, whatever it is called, syphoning the money, embezzling the money, depriving the employees of their Pension Fund and hon. Osman Mahomed talks of Governance. *Toupet boeuf*, Mr Speaker! *Toupet boeuf* to speak of governance! And this went on. And it was in 2016, when I informed Cabinet of that situation, Cabinet said we need to return that money to the workers and we did it, in instalments but we did it. The pension funds were ...

*(Interruptions)*

And of course, there were delays and it is not unexpected when we see such a technical matter and we have benefitted support from the African Legal Support facility of the African Development Bank. I personally met the President of the French Commission de Regulation in Paris who sent a member to Mauritius to assist the URA. We have added a component of strengthening the institutional structure on the Green Climate Fund and it is a great day, we seem perhaps to find this not so important today, we are carrying on with that progress, perhaps slow but we are doing it, we are not sleeping for 10 years over this.

Let me conclude by quoting from paragraph 108 of the Government Programme 2015-2019 –

“Government will review the institutional framework for the power sector and operationalized the Utility Regulatory Authority to ensure sound competitiveness in the energy sector and protect the interest of consumers.”

And in the Government Programme 2019-2024 at paragraph 114 –

“To support the Utility Regulatory Authority for the implementation of a Regulatory Framework for electricity and will review the governance structure and operations of the CEB to enable it to respond to the requirements of Utility Regulatory Authority”

Today is the proof that we walk our talk. We don’t talk in vain. We don’t sit in an office of the MID doing nothing for 10 years and then come and say all sorts of stupid things in Parliament.

Thank you, Mr Speaker, Sir.

**Mr Speaker:** Hon. Collendavelloo, can you please withdraw the word “stupid”?

**Mr Collendavelloo:** Yes, of course, intelligent. With apologies, of course!

**Mr Speaker:** Hon. Lesjongard!

(11.54 p.m.)

**Mr Lesjongard:** M. le président, j’ai écouté avec beaucoup d’attention les interventions des membres du gouvernement et de l’opposition. De par notre tradition parlementaire, je remercie tous ceux qui sont intervenus sur ces deux projets de lois. Mais je fais deux constats, M. le président.

Le premier c’est que nous constatons qu’il y a une maîtrise parfaite du sujet, c’est-à-dire, l’énergie et une maîtrise parfaite des amendements apportées à ces deux projets de loi par les intervenants du gouvernement. Par contre, le constat est que nous avons eu des interventions légères démontrant qu’il n’y a pas maîtrise, premièrement du sujet, mais aussi des deux projets de loi de la part des membres de l’Opposition. Et un peu plus tard, M. le président, je vais argumenter pour démontrer cette légèreté sur deux projets de loi aussi importants par les intervenants des rangs de l’Opposition. Ce qu’il faut reconnaître ce soir, M. le président, c’est encore une autre preuve que ce gouvernement respecte ses engagements en mettant en pratique son programme et je remercie deux intervenants du côté du



gouvernement qui ont démontré, qui ont parlé sur cet aspect des choses, l'honorable Dhaliah et l'honorable Ivan Collendavelloo parce qu'il est stipulé dans notre programme électoral, et je cite –

*“Government will support the Utility Regulatory Authority for the implementation of the Regulatory Framework for electricity and will review the governance structure and operations of the Central Electricity Board to enable it to respond to the requirements of the Utility Regulatory Authority.”*

Que vous le voulez ou pas, ce crédit va à l'honorable Premier ministre de ce pays parce qu'il prouve encore une fois que toute parole donnée est respectée par le gouvernement. Cet après-midi, M. le président, nous avons voté un projet de loi très important pour la protection des enfants, c'est-à-dire, le *Children's Bill* et ce soir, nous faisons un autre pas pour protéger cette fois-ci les consommateurs.

M. le président, nous avons eu trois intervenants de trois différents partis de l'Opposition. Je vais commencer par le discours de l'honorable Rajesh Bhagwan. Il a été tantôt nostalgique en faisant référence à ses années passées au *CEB*, tantôt mélancolique, mais la plupart du temps, démagogique, M. le président. Il a voulu de par son intervention évoquer le sujet énergétique mais sans jamais toucher les amendements précis des deux projets de loi.

M. le président, l'honorable Rajesh Bhagwan raised the issue of renewable energy. Mr Speaker, Sir, the House knows that we already have a roadmap for the Renewable Energy Sector and we have set targets for the renewable energy. It is known now, Mr Speaker, Sir, that these targets are - let me give the figures that we will have 35% of our energy production from renewable energy by the year 2025 and 40% by the year 2030. And he raised the issue also of producing electricity by using coal. I made a Press conference recently and I stated clearly that the intention of Government is that IPPs in the years to come should move away from coal.

Another issue that was raised and which I am going to reply is with regard to the CEB Facilities and the CEB FiberNet. The issue was also canvassed by the previous orator hon. Ivan Collendavelloo. I have already replied to PQs on these issues and I have provided a series of information with regard to the new direction taken by these two companies and I have also informed the House with regard to the contribution of the CEB FiberNET to the water and wastewater sectors.

Mr Speaker, Sir, let me come to what hon. Osman Mahomed stated in this House with regard to the setting up of the URA and the functioning of the URA. This also has been canvassed by the previous orator, but, Mr Speaker, Sir, si on a accusé du retard dans le fonctionnement de la *Utility Regulatory Authority*, les raisons sont évidentes and I will refer to a speech made by a Member of this House in 2008 where he said, and I quote –

“We wasted all this time, *mais mieux vaut tard que jamais*; but we wasted time. The coming into operation of the Utility Regulatory Authority is long overdue. We wasted time. We did the job in 2004. ”

And do you know who said that, Mr Speaker, Sir, hon. Bérenger, when hon. Kasenally brought amendments to this House to the Utility Regulatory Authority in 2008. Mr Speaker, Sir, the Labour Party wasted nine years from 2005 to 2014, Mr Speaker, Sir and now today they have the guts to come and say that we wasted time. We did not waste time Mr Speaker, Sir...

*(Interruptions)*

**Mr Lesjongard:** From...

**Mr Speaker:** Prime Minister, please!

**Mr Lesjongard:** From 2016 up to today, we made operational the Utility Regulatory Authority and during that time, they were recruiting staff, Mr Speaker, Sir. They had to deal with a lot of issues to come into operation. And this is done as at today and once we proclaim those two pieces of legislation, the URA will become functional, Mr Speaker, Sir.

Another issue was raised by hon. Osmad Mahomed. I agree with hon. Ivan Collendavelloo when he said that hon. Osman Mahomed misled the House and I refer to the question which I answered in Parliament, question put to me by hon. Osman Mahomed with regard to Commissioners of the URA. In my reply, I stated who are the members of the URA and hon. Osman Mahomed made reference to one person. If you would allow me, Mr Speaker, Sir, I will mention the name, Jenny Mootealoo and he referred in Hansard to a section of the legislation and he said, I quote - Mr Speaker, Sir, thank you –

“One Commissioner in particular, Mrs Peggy Sevambial Mootealoo, can the hon. Minister confirm to the House whether she is, in fact, Ms Jenny Mootealoo which, according to the law and I am going to cite the Utility Regulatory Authority Act, section 10(4)(d) –

“(4) Notwithstanding any other provision of this Act, no person shall be appointed as Chairperson or Commissioner (...) when she or he is involved in politics”

When you refer to that same section (d) in the legislation, that is 4(d) and I read –

“Notwithstanding any other provision of this Act, no person shall be appointed as Chairperson or Commissioner or continue to hold office as Chairperson or Commissioner where - he is actively involved in politics”

You missed completely that ‘actively involved in politics’ and let me inform the House that that person is no more actively involved in politics, Mr Speaker, Sir.

*(Interruptions)*

Mr Speaker, Sir, hon. Osman Mahomed also raised the issue of social tariff.

Mr Speaker, Sir, *rendons à César ce qui appartient à César*, et c’est l’honorable Ivan Collendavelloo qui avait aidé 70,000 familles à bénéficier d’une réduction de tarif. At the same time, CEB implemented the Home Solar Project for families falling under the SRM, Mr Speaker, Sir. I understand that already a thousand families have been equipped with solar panels.

With regard to the review of classification of electricity tariff, Mr Speaker, Sir, I am informed that the classification of tariff will be reviewed by the URA once the CEB completes its cost of supply study in line with the guidelines set by the URA. I also understand that the URA has finalised the tariff methodology for the electricity services.

Mr Speaker, Sir, the issue of cross subsidisation between commercial and industrial sectors tariffs was also raised by hon. Osman Mahomed during his intervention.

Let me quote section 28(1) of the Electricity Act which provides that –

**‘Principles applicable to tariff determination :** for the purposes of a determination of tariff the Authority, that is, the URA, shall ensure that the tariff phases out or reduces cross-subsidies between different categories of customers;(,,)’

and the CEB will have to work out cost of supply and submit the appropriate figures to the URA.

Mr Speaker, Sir, during his intervention, hon. Lobine raised the issue of an omnibus legislation for the energy sector to promote renewable energy. Let me inform the House that the Electricity Act caters for production, generation licences in respect of all modes or types of energy production and I will refer the Member to the Schedule of the Electricity Act which provides for a licensee to generate electric power from bagasse, other renewable electrical energy sources or co-generation plants.

Also hon. Lobine raised the issue of electricity being produced by the CEB and IPPs and he made reference to 60% of the electricity produced by IPPs and 40% by the CEB.

Let me inform the House, Mr Speaker, Sir, that amendments brought to CEB Act will not compromise in any matter the production of electricity by IPPs. What will happen, Mr Speaker, Sir, is that the promulgation of the Electricity Act will give a new impetus to the renewable energy sector.

He also raised a question with regard to whether the URA has the required manpower and competences.

Mr Speaker, Sir, let me inform the House that, as at today, the URA has recruited the following personnel –

- (a) the CEO;
- (b) the Administration Manager;
- (c) the Finance staff;
- (d) the Manager of Network and Assets plus the staff;
- (e) the Manager of Legal Affairs plus the staff;
- (f) the licensing and compliance lawyer,
- (g) the Tariff and Financial Analyst.

to cite a few of the personnel which is, at present, working at the URA. For the moment, the URA will focus on the electricity sector given that we already have a legal framework for that sector.

Hon. Lobine also raised the issue of Germany coming forward with a new piece of legislation for the renewable sector. I take note and I appreciate his interest, but we also need to reckon the difference between Mauritius and Germany in terms of size and system of the network.

Mr Speaker, Sir, hon. Mahomed also raised the issue when I stated that we will look into the preparation of a Water Bill and a Wastewater Bill. Mr Speaker, Sir, I wish to assure the House that, in due course, we will come forward with these two pieces of legislation and we will not take nine years to bring these two pieces of legislation to this House.

Permettez-moi de conclure, M. le président. Le secteur énergétique et la technologie vont de pair et ces deux secteurs connaissent une évolution rapide. Notre île doit s'adapter à cette évolution. Le CEB et mon ministère avons pris les premières mesures afin de rendre plus efficaces ces différents départements.

Nous avons passé une première étape avec l'intégration du CEB Green Energy au sein même du CEB. Cette nouvelle unité s'occupera désormais de tous les projets de production d'énergie renouvelable pour le CEB. La présentation des amendements est une autre étape importante dans le secteur de l'énergie à Maurice.

En ligne avec la politique énergétique, le CEB va intégrer l'énergie renouvelable, l'énergie propre, c'est-à-dire LNG, l'énergie alternative, la biomasse et l'énergie nouvelle. Des investissements massifs ont déjà été effectués pour pouvoir intégrer les énergies renouvelables, variables telles que l'énergie solaire et l'éolienne sur le réseau du CEB.

Les amendements débattus aujourd'hui vont permettre le changement d'un réseau conventionnel à un réseau intelligent. La mise en fonction de la URA est bénéfique pour toutes les différentes parties : les consommateurs en premier, le CEB, les opérateurs du privé. La URA va assurer l'équilibre en toutes les parties prenantes du secteur énergétique.

Je vous remercie, M. le président.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE STAGE**

*(Mr Speaker in the Chair)*

*The following Bills were considered and agreed to –*

*(i) The Central Electricity Board (Amendment) Bill (No. XXI of 2020)*

*(ii) The Electricity (Amendment) Bill (No. XXII of 2020)*

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

*Third Reading*

*On motion made and seconded, the following Bills were read a third time and passed*

*(i) The Central Electricity Board (Amendment) Bill (No. XXI of 2020)*

*(ii) The Electricity (Amendment) Bill (No. XXII of 2020)*

**END-OF-YEAR MESSAGE**

**The Prime Minister:** Mr Speaker, Sir, with your permission, I wish to say a few words before moving for the adjournment of the House, as this is the last Sitting for the year.

Mr Speaker, Sir, with the outbreak of the COVID-19 pandemic, Parliaments worldwide have had to review their *modus operandi* to ensure that the Legislature is able to fulfil its primary mission. The first Sitting for this year was held on 24 January 2020. However, due to the prevalence of the pandemic, the Sittings had to be interrupted in April and the Assembly resumed on 05 May 2020 in a new configuration.

As Leader of the House, I wish to place on record my sincere appreciation and thanks to you, Mr Speaker, Sir, for having reacted promptly to this unprecedented crisis by causing structural changes to be brought to the Chamber to ensure the physical presence of all hon. Members. In fact, it is worth noting that we are among the few Parliaments which have been able to secure the physical presence of all their Parliamentarians in the Chamber.

You also issued sanitary protocols in line with the measures put in place to contain the spread of the virus.

Moreover, certain provisions of the Standing Orders presently stand suspended to allow hon. Members to address the Chair from a sitting position. The Assembly has also functioned in a hybrid manner by allowing hon. François to offer his observations on the Appropriation (2020-2021) Bill through video conference.

Mr Speaker, Sir, as at date, we have had 38 Sittings. Government has introduced 22 Bills, out of which 18 have been passed and one Bill has been withdrawn. Government has replied to 594 Parliamentary Questions requiring oral answers and 46 requiring written answers. In addition, Government has replied to 24 Private Notice Questions from the hon. Leader of the Opposition and replied to queries during the Committee of Supply of three Supplementary Appropriation Bills.

The House has also debated a Motion of No Confidence in Mr Speaker and a Motion of Disallowance.

Mr Speaker, Sir, I thank you for presiding over the deliberations of the House as well as the hon. Deputy Speaker whenever he was called upon to take the Chair. I also thank hon. Members for their participation in the debates. My thanks are also extended to the Clerk, the Deputy Clerk, the two Clerk Assistants, all the officers of the National Assembly, including the officers of the Library, the Office Care Attendants, the Serjeant-at-Arms, officers of the Solicitor General's Office and all civil servants for their contribution in the discharge of parliamentary duties.

Mr Speaker, Sir, may I request you to present the Season's Greetings to His Excellency, the President of the Republic and Mrs Roopun, as well as to His Excellency, the Vice-President and Mrs Boissézon, and their families.

I convey to you Mr Speaker, Sir, and to your family, our best wishes for a Merry Christmas 2020 and a Happy New Year 2021. I extend my best wishes to the hon. Leader of the Opposition and his family and I must, on a personal note, also address to him my best wishes for a happy married life.

*(Interruptions)*

Let me also extend my best wishes to all the hon. Members and their families.

Mr Speaker, Sir, I also wish to express my best wishes to the Clerk of the National Assembly, the officers of the Assembly and all the civil servants. I convey my good wishes for the festive seasons to the population and I sincerely wish that 2021 shall be a peaceful and prosperous year.

I thank you, Mr Speaker, Sir, and I move for the adjournment of the House to Tuesday 23 March 2021.

*(Applause)*

**The Leader of the Opposition (Dr. A. Boolell):** Mr Speaker, Sir, may I kindly request you, on behalf of the Opposition and in my personal name, to present Season's Greetings to the President of the Republic and Mrs Roopun, to the Vice-President of the Republic and Mrs Boissézon and their families; to you, Mr Speaker, to the Clerk and all staffs of the National Assembly as well as the Serjeant-at-Arms and his Officers and their families; to the hon. Prime Minister and Mrs Jugnauth and all the Members of the National Assembly

and their families, and to the country at large, a Merry Christmas and a Happy New Year to everyone.

Thank you very much.

*(Applause)*

**Mr Speaker:** Hon. Members, I associate myself with the Season's Greetings expressed by the hon. Prime Minister and the hon. Leader of the Opposition to His Excellency, the President and Mrs Roopun, to His Excellency, the Vice-President and Mrs Boissézon and their families.

In my own name and on behalf of the Clerk and officers of the National Assembly, I thank the hon. Prime Minister and the hon. Leader of the Opposition for their kind words and good wishes.

I am pleased to extend my best wishes for a Merry Christmas 2020 and a Happy New Year 2021 to the hon. Prime Minister and to Mrs Jugnauth and members of their family, to the hon. Leader of the Opposition and all hon. Members and their families - although you keep sitting each time I come.

I associate myself with the hon. Prime Minister and the hon. Leader of the Opposition to thank the Clerk, the Deputy Clerk, the two Clerk Assistants, all the officers of the National Assembly, including the officers of the Library, the Office Care Attendants, the Serjeant-at-Arms and his Officers and all the civil servants, including the officers of the Solicitor General's Office who have assisted in the work of the Assembly and convey to them and their families my Season's Greetings.

I thank you.

## **ADJOURNMENT**

**The Prime Minister:** Mr Speaker, Sir, I think in the festive mood that we are in, I forgot to mention the time at which we have to resume our work. So, I beg to move that this Assembly does now adjourn to Tuesday 23 March 2021 at 11.30 a.m.

**The Deputy Prime Minister seconded.**

*Question put and agreed to.*

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



Hon. Callichurn, you are a Government Minister; you should be properly dressed when you attend Parliament. Apologise for that!

**Mr Callichurn:** I apologise, Mr Speaker, Sir.

*At 0.29 a.m., the Assembly was, on its rising, adjourned to Tuesday 23 March 2021 at 11.30 a.m.*