

No. 17 of 2017



REPUBLIC OF MAURITIUS

SIXTH NATIONAL ASSEMBLY

**PARLIAMENTARY
DEBATES
(HANSARD)**

FIRST SESSION

FRIDAY 30 JUNE 2017

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Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Minister Mentor, Minister of Defence, Minister for Rodrigues
Hon. Showkutally Soodhun, GCSK	Vice-Prime Minister, Minister of Housing and Lands
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Hon. Dharmendar Sesungkur	Minister of Financial Services, Good Governance and Institutional Reforms

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MAURITIUS

Sixth National Assembly

FIRST SESSION

Debate No. 17 of 2017

Sitting of 30 June 2017

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

The National Anthem was played

(Madam Speaker in the Chair)

PAPERS LAID

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

A. Prime Minister's Office

- (a) Certificate of Urgency in respect of the Outer Islands Development Corporation (Amendment) Bill 2017 (No. VIII of 2017). (In Original)
- (b) The Companies (Payment of Fees to Registrar) (Amendment) Regulations 2017. (Government Notice No. 118 of 2017)

B. Ministry of Health and Quality of Life

The Medical Council (Medical Institutions) (Amendment No. 6) Regulations 2017. (Government Notice No. 120 of 2017)

C. Ministry of Agro-Industry and Food Security

The Meat (Abattoir) (Amendment) Regulations 2017. (Government Notice No. 117 of 2017)

D. Ministry of Industry, Commerce and Consumer Protection

- (a) The Rodrigues Consumer Protection (Control of Price of Taxable and Non-taxable Goods) (Amendment No. 21) Regulations 2017. (Government Notice No. 116 of 2017)
- (b) The Rodrigues Consumer Protection (Control of Price of Taxable and Non-taxable Goods) (Amendment No. 22) Regulations 2017. (Government Notice No. 121 of 2017)

E. Ministry of Local Government and Outer Islands

The City Council of Port Louis (Streets and Squares) (Amendment) Regulations 2017. (Government Notice No. 122 of 2017)

F. Ministry of Financial Services, Good Governance and Institutional Reforms

The Financial Services (Consolidated Licensing and Fees) (Amendment) Rules 2017. (Government Notice No. 119 of 2017)

ORAL ANSWER TO QUESTION
MIDDLE EAST COUNTRIES – DIPLOMATIC RELATIONS

The Leader of the Opposition (Mr X. L. Duval) (*by Private Notice*) asked the hon. Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to our relations with the Middle East countries, he will -

- (a) state the reasons for the issue of the *Communiqué*, dated 05 June 2017, breaking off our relations with the State of Qatar;
- (b) state whether Mauritius has joined any so-called Coalition against the Republic of Iran;
- (c) state the steps taken to ensure the safety and well-being of Mauritian nationals who are working/or otherwise in the State of Qatar and in the Republic of Iran, respectively, and
- (d) give details of the Foreign Direct Investments, if any, received from Saudi Arabia since 01 January 2015, excluding monies received therefrom on the acquisition of villas.

The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):
 Madam Speaker, if you will allow me, I will answer this PNQ of the hon. Leader of the Opposition.

Madam Speaker, Mauritius enjoys excellent relations with all the countries of the Middle East which are also members of the Non-Aligned Movement (NAM). Our relations with Gulf countries are such that their nationals can travel freely to Mauritius and obtain their visas on arrival.

Since the coming into office of this Government in December 2014, we have spared no efforts to further broaden and strengthen our relations with these countries and others. Indeed, the House will note that this Government has honoured its commitment to open an Embassy in Saudi Arabia which will service the region. The Embassy is operational since December 2016.

Madam Speaker, with regard to part (a) of the question, I wish to state that the *Communiqué* referred to in part (a) does not reflect the official stand of Mauritius.

On 05 June 2017, the Kingdom of Saudi Arabia announced that it had severed its diplomatic and consular relations with the State of Qatar. Subsequent to that announcement, the international Press reported that a group of countries, namely Bahrain, Egypt, Libya, Maldives, Saudi Arabia and Yemen, had also broken ties with Qatar. Mauritius was also reported as having broken diplomatic relations with the State of Qatar.

Following reports from our mission to the United Nations in New York and our missions in Riyadh, Cairo and Islamabad amongst others, and Press articles in the international media stating that Mauritius had broken ties with Qatar along with Bahrain, Egypt, Libya, Maldives, Saudi Arabia and Yemen, the Ministry of Foreign Affairs issued an official Communiqué on 06 June 2017, stating that pursuant to its stand of maintaining cordial relations with all the countries of the region, Mauritius favours dialogue between the countries involved in the interest of peace and stability in the region and in the world.

Madam Speaker, on 07 June 2017, my colleague the Minister of Foreign Affairs, Regional Integration and International Trade sent a letter to His Excellency Sheikh Mohammed bin Abdulrahman bin Jassim Al-Thani, the Minister of Foreign Affairs of the State of Qatar stating, *inter-alia*, that Mauritius will continue to maintain the excellent relations that Mauritius and Qatar enjoy.

Madam Speaker, with a view to further clarifying the situation, the Ministry of Foreign Affairs, Regional Integration and International Trade contacted Al Jazeera network on 11 June 2017 and the French daily ‘Le Monde’ on 20 June 2017 to clarify the stance of Mauritius on its relations with Qatar so that any subsequent reports would give a correct appraisal of the position of Mauritius. I wish to inform the House that following these requests, the references to Mauritius as one of the States having severed ties with the State of Qatar have been rectified.

Moreover, the Ministry of Foreign Affairs, Regional Integration and International Trade has requested all our Embassies and High Commission to officially notify their respective capitals and countries of accreditation of the stance of Mauritius.

States are, indeed, actors of International Law and they act through the respective Prime Ministers, Foreign Ministers and Diplomatic Missions regarding relations with foreign countries.

Madam Speaker, as you are aware, the United Nations Charter calls upon States to develop friendly relations amongst nations based on the respect of equal rights and self-determination of peoples and to take other appropriate measures to strengthen peace. It also calls upon all States to work together to achieve international cooperation in solving

problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without discrimination.

The United Nations is based on the sovereign equality of all members. All members shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered.

Madam Speaker, as I said, International Law provides that Heads of States/Heads of Government or Ministers of Foreign Affairs are the only persons entitled to speak and communicate on matters relating to diplomacy, international relations and the conduct of international affairs.

Madam Speaker, with regard to part (b) of the question, the answer is in the negative. Mauritius has not joined any so-called coalition against Iran.

With regard to part (c) of the PNQ, Madam Speaker, I am informed that there is no threat to the security and well-being of our citizens working in Qatar or Iran. However, in the given circumstances, the Ministry of Foreign Affairs, Regional Integration and International Trade, when solicited, has reassured our nationals that Mauritius has not severed its relations with the State of Qatar and no formal request for assistance has been received. Our missions in Riyadh, Cairo and Islamabad are closely monitoring the situation.

Madam Speaker, with regard to part (d) of the PNQ, I am informed that the records of the Bank of Mauritius indicate that gross direct investment from Saudi Arabia totalled Rs22 m. in 2015 and Rs224 m. in 2016. All these investments were directed in the real estate sector.

(Interruptions)

Madam Speaker: Hon. Leader of Opposition! Please, he has not finished!

Mr Bodha: I have also been informed, Madam Speaker, that an investment of 58 million USD from the UAE has been done in the hotel sector and there is a proposed investment of 150 million USD in the same sector in the years to come.

Mr X. L. Duval: Madam Speaker, is the hon. Minister trying to make me believe and the House believe and the nations believe that he has not taken any cognizance of the Communiqué, with the Coat of Arms of the Republic of Mauritius, under the letterhead of the Ministry of Housing and Lands, Office of the Vice-Prime Minister, he is trying to make me believe that he has not seen this Communiqué?

Mr Bodha: Madam Speaker, as soon as the Communiqué was released and there was confusion in the world affairs, the Ministry did what had to be done.

Mr X. L. Duval: So, are you telling us that this Communiqué exists and it was sent from the Ministry of Housing and Lands, Office of the Vice-Prime Minister, yes or no?

Mr Bodha: Once we were aware that the Communiqué had been issued and there was confusion, we did what had to be done at the level of the Ministry of Foreign Affairs.

Mr X. L. Duval: Madam Speaker, the Minister is confirming that this Communiqué is a genuine Communiqué and he has taken note of it and tried to repair whatever damage has been caused by this.

Why then did the Ministry of Foreign Affairs, through its High Commission in Pretoria, send an accompanying note to the Republic of Qatar, its Embassy in Johannesburg - and I quote - saying that the news that it has broken off diplomatic relations with the State of Qatar, bears on false and fake allegations? I am sure the hon. Minister must have this copy, although I understand that he is replacing his colleague, but nevertheless this is an official -it is stamped, Madam, you will see. Which is which? Is the hon. Minister giving us now different information to what the Ministry has given to the State of Qatar? Which one is untrue?

Mr Bodha: My colleague, I talked to him, has sent a Communiqué to the Foreign Minister of Qatar, establishing things.

(Interruptions)

Qatar, yes!

As I said, there was confusion on the international scene and we established the Communiqué. There is one official Communiqué, Madam Speaker. This Communiqué was published on 06 June.

Mr X. L. Duval: Madam Speaker, the hon. Minister is confirming the existence of this Communiqué on 05 June from the Office of the Vice-Prime Minister. Let me say that this Communiqué accuses Qatar of involvement with regard to regional terrorism. Just for the record, I will table this. When and if a statement has been made to the Police regarding this Communiqué or any false or falsified version of that Communiqué?

Mr Bodha: No, Madam Speaker!

Mr X. L. Duval: So, no! There is a Communiqué which the Ministry of Foreign Affairs, Regional Integration and International Trade, has sent to the Ministry of Foreign Affairs of Qatar, saying that there is a false Communiqué but here, in Mauritius, I take it, nothing has been said to the Police, no internal enquiry, nothing, Madam Speaker. This is the proof! Will the hon. Minister agree that we now have officially in Mauritius a banana republic; we should change our Coat of Arms and put a big banana.

(Interruptions)

Mr Bodha: Madam Speaker, there was a situation on the international scene where the name of Mauritius was mentioned. What was the priority of the Ministry of Foreign Affairs Regional Integration and International Trade? It was to clear the matter and this was what was done by an official Communiqué on the day after, that is, on the 6th. This was done in all our High Commissions and in all our Consulates. This was done also in New York at the level of the General Assembly where our official representative, Ambassador Koonjul, went to see his counterpart from Qatar, a number of times, to clear the air, and to explain that if there was any misunderstanding, that all the clarifications have been given, Madam Speaker.

Mr X. L. Duval: A banana republic is officially confirmed! Madam Speaker, I would like to ask the hon. Minister whether he is aware, who is leading the embargo on Qatar, who is leading this embargo which is joined by six or seven countries? Who is leading, if it is none other than Prince Salman, now Crown Prince Salman, provider of private jets when Ministers are sick overseas?

(Interruptions)

Madam Speaker: Hon. Soodhun, please!

(Interruptions)

Hon. Soodhun, please.

Mr Bodha: Madam Speaker, the hon. Leader of the Opposition is speaking about the trend that international affairs are taking; Mauritius has nothing to do in that.

Mr X. L. Duval: Madam Speaker, this is obviously some kind of conspiracy because a few hours after the issue of the famous Communiqué, which now the whole of Mauritius knows it exists and existed, Saudi Airlines tweeted - we are all into tweets now, as you know - Saudia plans to expand service to Mauritius to major tourist destinations by introducing new flights to Mauritius. Is he aware, Madam Speaker, of this tweet by Saudia?

Mr Bodha: The hon. Leader of the Opposition has been Minister of Tourism and External Communications. When we come to connecting flights between one State to the other, we have a procedure; it is not on twitter.

(Interruptions)

Mr X. L. Duval: Madam Speaker...

(Interruptions)

Madam Speaker: Order!

Mr X. L. Duval: Madam Speaker, even Donald Trump, President of United States, tweets. Obviously, he does not read the important tweets. Now Madam Speaker, let me say this.

(Interruptions)

You can take it as funny, but now we will deal with the employees, the people working there in a moment. You can laugh at the stupidity, but it is a stupidity what you have done.

I understand that you have written and lied, in fact, to Qatar, to say that it did not exist. What about the other countries involved in this because it is a coalition of a few countries against another few countries and Mauritius has got engulfed, if that is the right word, in this imbroglio. Iran which is indirectly targeted by this embargo; Turkey which has a base in Qatar. What have they done towards these two countries in particular to show that this Communiqué was from a second unofficial Minister of Foreign Affairs?

Mr Bodha: What has to be done on the world scene, on all the fora, at the level of the High Commission, at the level of our Embassy, at the level of Consulates and at the level of the General Assembly at United Nations in New York? I have had conversation with Ambassador Koonjul and he has gone to see each and every State when we were canvassing for the vote of the Chagos, he has cleared the air with all these States. He has told me

personally that that there is no cloud - Ambassador Koonjul has reassured us in the light of the meetings with his counterpart that the situation has now been cleared; there is no cloud in the relations between Mauritius and Qatar.

Mr X. L. Duval: Just to mention - is the hon. Minister aware that none of these countries supported Mauritius at the UN?

(Interruptions)

If all had been cleared...

(Interruptions)

...neither Iran nor Qatar nor Turkey supported Mauritius. That is a fact. Madam Speaker, Mauritius...

(Interruptions)

Madam Speaker: I want some order, on this side, please!

(Interruptions)

Allow the Leader of the Opposition...

(Interruptions)

Please!

Mr X L Duval: I second...

(Interruptions)

Madam Speaker: Please!

(Interruptions)

Hon. Soodhun! Hon. Soodhun!

(Interruptions)

Hon. Soodhun, I am calling you several times, please do not crosstalk because this will bring disorder in the House.

Mr X. L. Duval: Is the Minister aware that hon. Soodhun has been persistently involving Mauritius in the worst Middle East crisis since the Gulf, and in which Mauritius has no business whatsoever, and which most of the countries of the world are avoiding like *la peste*. When the hon. Vice-Prime Minister went to attend the military exercise North Thunder - I leave it here, Madam Speaker, with you what he declared, attacking Iran, saying that he will stand firmly by Saudi Arabia to silence Iran which has been involved in sectarian ideology.

Madam Speaker, what can the hon. Minister of External Affairs tell? What on earth is Mauritius, which has always had diplomatic neutrality and kept friends with every single country of the world, doing in a fight between Arab countries in the Gulf? What on earth are we doing there?

Mr Bodha: The hon. Leader of the Opposition is right, it is none of our business to be there. We are in the eye of the cyclone!

(Interruptions)

Madam Speaker, as regard to the vote at the United Nations regarding the Chagos Archipelago issue, six Middle Eastern countries voted for, five abstained, but none voted against Mauritius...

(Interruptions)

...this means...

(Interruptions)

Madam Speaker: Hon. Soodhun!

(Interruptions)

Hon. Soodhun!

(Interruptions)

Now, hon. Soodhun, I am drawing your attention, do not make provocations!

(Interruptions)

Please!

Mr Bodha: Madam Speaker, which means that none voted against a resolution which was fought by the United States and the UK in no uncertain terms, Madam Speaker.

As regard to the position of Mauritius on the international scene relating to any issue, any struggle, I am mentioning again that the official voice of Mauritius as explained in that Communiqué of the 06 relates to the Head of Government and to the Ministry of Foreign Affairs, Regional Integration and International Trade.

Mr X. L. Duval: Madam Speaker, may I ask the hon. Minister whether the hon. Prime Minister should not at least phone - I do not know, I think he has tried to phone Qatar and they would not take the call, that is what I understand. Now, they refused to take his call or the call of the Minister of Foreign Affairs, Regional Integration and International Trade, but perhaps the hon. Prime Minister can try and contact his counterpart in Iran, in Turkey, and I will remind the hon. Minister of Foreign Affairs, Regional Integration and International Trade that Turkish Airlines bring thousands upon thousands of tourists to Mauritius up to 5 flights a week! I would like to make a request that the hon. Prime Minister picks up his phone and arranges for conference calls with all his counterparts after the mess that has been created in our international reputation by hon. Soodhun!

(Interruptions)

Madam Speaker: Hon. Soodhun, I have told you several times not to make provocations and not to crosstalk with anybody on this side of the House!

(Interruptions)

This is the last time I am drawing your attention to this, please!

Mr Bodha: To establish and to consolidate the carat of Mauritius, Madam Speaker, on the international scene, what has to be done will be done by the Prime Minister, by the Foreign Minister, Regional Integration and International Trade and by all the Members of Government!

Mr X. L. Duval: Madam Speaker, I would like to ask the hon. Minister of Foreign Affairs, Regional Integration and International Trade when there were reports that our troops - God knows if we have troops - took part in North Thunder exercise in Saudi Arabia, did the Ministry of Foreign Affairs, Regional Integration and International Trade think it fit to issue some sort of Communiqué? I think they are very lazy in terms of communiqué! Did we issue

a Communiqué to say that we have no troops and we did not have any troops in Saudi Arabia to take part in any manoeuvres?

Mr Bodha: But, we have no army, Madam Speaker! We had no troops anywhere!

Mr X. L. Duval: Does the hon. Minister think that everybody knows that we have no army?

Mr Bodha: Yes.

Mr X. L. Duval: You think so? Okay! Very good! Maybe he should tweet it! Madam Speaker, I would like to ask now about the hundreds of Mauritians working in Qatar; they are, I think, 366 from my information, I do not know how many are in Turkey, in Iran, all these are potentially in danger if hon. Soodhun is let loose with his communiqués! Some of them may even be taken as spies for Saudi Arabia or whatever. What are you going to do to protect them and ensure for their well-being and, if necessary - and this sort of rubbish continues - you may even have to take them out of the country upon half a day's notice?

Mr Bodha: Madam Speaker, every Mauritian working anywhere else in the world deserves that the nation stands by his side whenever there is any issue or any problem. I have had a request made to the Minister of Employment as regard to those Mauritians who are in Qatar. I have been told that all the Mauritians who have gone to Qatar, have gone to Qatar on their own, that is, they have not been through any official channel. Some have gone also from Europe and some other places like people working in hospitals.

I understand the apprehensions of the hon. Leader of the Opposition. What has been done also is that I talked to the Ministry of Foreign Affairs, Regional Integration and International Trade, they have had a number of phone calls from Mauritian nationals about what is happening and they have been reassured, this we can say. In addition, there has been no formal request for assistance at any of our embassies, but Islamabad, Cairo, everywhere wherever we have been able, we are monitoring the situation closely, and if action has to be taken to see to it that they are safe, we will do what has to be done, Madam Speaker.

Mr X. L. Duval: Madam Speaker, can the acting Minister of Foreign Affairs, Regional Integration and International Trade tell us this famous seven star hotel that the substantive Minister, hon. Lutchmeenaraaidoo, had announced as coming to, I think, Pointe des Lascars, of all places, where is that hotel? It was flashed all over the papers?

(Interruptions)

Madam Speaker: Hon. Bhagwan, please!

(Interruptions)

Calm down, do not get excited!

(Interruptions)

Mr Bodha: Madam Speaker, we have a Minister of Tourism and I think that should be a specific question as regard to investment in the hotel industry and as regard to that project. What I have been told is that there is one hotel in the east of Mauritius which is being refurbished at the cost of 58 million dollars. It is from UAE and not from Saudia and it is a proposed investment. I think if the hon. Leader of the Opposition asks a specific question to my colleague, the Minister of Tourism, he will be able to provide the right answers.

Madam Speaker: Yes, hon. Osman Mahomed!

Mr Osman Mahomed: Thank you, Madam Speaker. In his original reply, the acting Minister of Foreign Affairs, Regional Integration and International Trade has stated that the Ministry has written to international media for the sake of correct reporting. Can I ask the hon. Minister whether necessary precaution has been initiated to cover all media because if you go on the Net - before I came I did it - and you type on the issue, you get to ridiculous title like 'One Government Two Directions' and this leads to Mauritius, jokingly comparing us to China....

Madam Speaker: No, do not make a statement hon. Osman Mahomed! There are several MPs who are asking to put questions, so, please be brief!

Mr Osman Mahomed: I am going to table it! Can I ask the hon. Minister to ensure at the level of the Ministry that all international media be written the facts that he has just stated in Parliament today? Thank you.

Mr Bodha: The needful will be done. I think that we have to re-establish the facts and the official Communiqué of the 06 re-establishes the facts, that is, it is the official version of the Mauritian Government. As I mentioned that there was a Communiqué which was sent to the Al Jazeera network, there was another which was sent to 'Le Monde' and, from what I understand, the Ministry is closely monitoring the situation for any clarification which needs

to be done. However, I have also been told that following these requests, the references to Mauritius as one of the States having severed ties with the State of Qatar have been rectified, but whenever anything will crop up, I think we have to do the needful.

Madam Speaker: Hon. Reza Uteem!

Mr Uteem: Thank you, Madam Speaker. Is the hon. Minister aware that only days after the Communiqué from the Ministry of Housing and Lands, the hon. Minister was bragging on Internet with journalists that he has been invited in Saudi with pictures taken of the Umrah, so being given that we have a clear case of a Minister using his office for gratification, will the Government give the assurance that they will not interfere with ICAC if there is a case of corruption?

Mr Bodha: Yes, I think we have given this assurance in general, Madam Speaker.

Madam Speaker: Hon. Rutnahn!

Mr X. L. Duval: Madam Speaker, I would like to ask the hon. Minister of Foreign Affairs whether Mauritius, in any way, subscribes to the demands of Saudi Arabia and company - it concerns the 30 demands which, I am sure, he has taken note of, one of which is that the Turkish military should be expelled from Qatar, and the second one is that Al Jazeera network which many Mauritians look at in Mauritius, should be closed down, given that the DPM had stated officially in his Press conference in Saudi Arabia, that Mauritius backs Saudi Arabia all the way and that is full stop.

Mr Bodha: I am going to read what I said in my opening statement Madam Speaker. I said that the guiding principles of the foreign policy of Mauritius since independence are based on peaceful coexistence and respect for sovereignty and territorial integrity, and a strict adherence to the principle of non-alignment in the conduct of international affairs, and our commitment to peace. I do not think that we adhere to all this.

Mr X. L. Duval: Will the Minister confirm that there still exists a Cabinet of Ministers and that there is only one policy for Mauritius? Not each of the 25 Ministers here and the PPS will issue Communiqués left, right and centre, taking their own time. Is there in this banana Republic, a Cabinet of Ministers, or is it *la cour du Roi Péto* nowadays?

Mr Bodha: Madam Speaker, we are not a banana Republic. I think that the wonderful work which was done in New York establishes the carat of Mauritius on the international

scene because the United Nations General Assembly is the most powerful international platform on the planet, and this is where the Rt. hon. Minister Mentor succeeded, so brilliantly, to push forward a resolution against two of the most powerful - the UK and the US, Madam Speaker!

Mr X. L. Duval: Madam Speaker, I request you...

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

Mr X. L. Duval: I am not giving way, Madam Speaker! You have stated this is mine, I am not giving way, Madam Speaker, I am sorry about it! Madam Speaker, I would like to ask the hon. Minister of Foreign Affairs...

(Interruptions)

Madam Speaker: Hon. Leader of the Opposition! Hon. Leader of the Opposition, I will come back to you, but since I had already given the floor to hon. Rutnah, and you said that you had a question, I had given you the floor...

(Interruptions)

No! Hon. Leader of the Opposition, please!

(Interruptions)

Please, sit down! Hon. Leader of the Opposition, you cannot, it is...

Mr X. L. Duval: You cannot do what you want Madam Speaker! I am not giving way!

Madam Speaker: No! It is not a question of giving way, hon. Leader of the Opposition! Please, sit down! It is not a question of giving way! It is a question of whom I gave the floor. And it is...

(Interruptions)

No! No! It is not...

(Interruptions)

You are taking my prerogative! Hon . Leader of the Opposition!

(Interruptions)

I am on my feet! I am on my feet! Hon. Leader of the Opposition! I am on my feet! Please! You are a seasoned politician! You know the rules of the House! It is your privilege, and I have said that several times that it is your privilege to ask PNQs. This is your privilege! But since I had already given the floor to hon. Rutnah, and I took it back, I gave it to you. I took it back and gave it to you. I gave you the prerogative of asking your question, but now I am going back to hon. Rutnah, and I will come back to you!

Mr Rutnah: Thank you, Madam Speaker! Madam Speaker, can I ask the hon. Minister of the Republic of Mauritius, in relation to part (c) of the question, whether there is a continuing effort to ascertain the identity and number of Mauritians who are working in the States of Qatar and Iran, and whether he can say that there has been any complaint registered from their family in Mauritius...

(Interruptions)

Madam Speaker: One question at a time! Please! Leader of the Opposition, allow the Minister to reply.

Mr X. L. Duval: I have two more questions.

Madam Speaker: I will give you additional time!

(Interruptions)

Mr Bodha: Madam Speaker, the concern of the hon...

(Interruptions)

Madam Speaker: But I had already given him the floor! Hon. Shakeel Mohamed, now do not confront me!

Mr Bodha: Madam Speaker, the concern of the hon. Member is the concern of every Member on this side of the House and the other side of the House. We cannot leave our nationals anywhere in a situation....

(Interruptions)

Madam Speaker...

Madam Speaker: Hon. Shakeel Mohamed!

(Interruptions)

No, you cannot.

Mr Bodha: And what I said is that a number of our citizens did...

(Interruptions)

Madam Speaker: Hon. Shakeel Mohamed! I am drawing your attention once more to the fact that you are disrupting the work of the House.

Mr Bodha: What I can say is that a number of our nationals in Qatar have made a phone call to the Ministry of Foreign Affairs to request clarifications and they have been reassured, and we have also said that, if need be, all our Embassies and the High Commissions are going to be there to help them. I can understand this concern.

Mr X. L. Duval: Madam Speaker, I have two questions, in fact, now. Firstly, what is the Ministry of Foreign Affairs doing in conjunction with the Prime Minister's Office because there is a very real risk that, in entering into a business that does not concern us, we are, in fact, importing a risk of terrorism into our country, and this is one of the reasons why the UK has upgraded our security level from low to underline.

Mr Bodha: Madam Speaker, I think this is a matter of opinion. Let me say one thing, that we do not want to be engulfed in any issue as regard to terrorism in the Gulf. We do not want this Madam Speaker! As regard to how the level of insecurity, to the warning, travel warning has been done, decided by the UK authorities, we may ask ourselves if it is not arm-twisting because of the Chagos issue.

Madam Speaker: Last question, Leader of the Opposition!

Mr X. L. Duval: Madam Speaker, I will now talk briefly about economic interest. Given that there are thousands of tourists coming from Turkey, and if you look at the figures, you will see that they have been falling recently, what is Government going to do to provide additional comfort, and assurances to these nationals which apparently come from countries which support tourism according to the DPM, which have a mess-up in terms of all sorts of ideology. What comfort and reassurance is the Government doing to these citizens who want to visit Mauritius, and who bring billions of rupees into this country?

Mr Bodha: Madam Speaker, we always take pride in promoting Mauritius as a safe destination for tourism. The hon. Leader of the Opposition has been a Minister of Tourism, he has done so, I have done so, and my colleague is doing so. Everything will be done to see to it that wherever we promote Mauritius, we promote Mauritius as a safe haven because it is a very important pillar of our industry. Thank you, Madam Speaker.

Madam Speaker: Time is over!

(Interruptions)

Hon. Bhagwan, please!

(Interruptions)

Hon Bhagwan!

(Interruptions)

Hon Bhagwan! I am taking much patience!

(Interruptions)

Please! Hon. Bhagwan, you are continuing!

(Interruptions)

Hon Bhagwan! I have told you no cross talking!

(Interruptions)

Hon. Bhagwan !

(Interruptions)

Hon. Bhagwan, do you want me to order you out?

(Interruptions)

Hon. Bhagwan!

(Interruptions)

Yes! Hon Bhagwan! I order you out!

(Interruptions)

Hon Bhagwan! I order you out!

(Interruptions)

Hon Bhagwan! I order you out!

(Interruptions)

I order you out!

(Interruptions)

Hon Bhagwan! Yes, I am ordering you out.

(Interruptions)

I have ordered you out.

(Interruptions)

Hon Bhagwan! *Non, non, non...*

(Interruptions)

Order!

(Interruptions)

Hon Bhagwan!

(Interruptions)

Hon Bhagwan!

(Interruptions)

I have ordered you out...

(Interruptions)

Hon. Bhagwan, you should understand that I have ordered you out because I have drawn your attention several times and you seem to ignore me.

(Interruptions)

Out, hon. Bhagwan!

(Interruptions)

Hon. Bhagwan!

(Interruptions)

Hon. Bhagwan, I have ordered you out and this is my ruling!

(Interruptions)

Yes, I have ordered you out!

(Interruptions)

Hon. Bhagwan, you have to go out!

(Interruptions)

I have ordered you out, hon. Bhagwan!

(Interruptions)

Hon. Bérenger, I am very patient with you and each time I see that you are confronting the Chair and I will not accept that!

(Interruptions)

Okay, I order you out also!

(Interruptions)

I order you out!

(Interruptions)

Hon. Bérenger, I order you out and hon. Bhagwan, I order you out!

(Interruptions)

I suspend the sitting.

At 3.46 p.m. the sitting was suspended.

On resuming at 3.53 p.m. with Madam Speaker in the Chair.

MOTION

SUSPENSION OF S.O. 10(2)

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

The Deputy Prime Minister rose and seconded.

Question put and agreed to.

(3.54 p.m.)

STATEMENTS BY MINISTER

CHAGOS ARCHIPELAGO – UNITED NATIONS GENERAL ASSEMBLY - RESOLUTION

The Minister Mentor, Minister of Defence, Minister for Rodrigues (Sir A. Jugnauth): Madam Speaker, it is with great pride that I rise to inform the House that the United Nations General Assembly adopted on 22 June 2017 a Resolution entitled "Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965".

The adoption of the Resolution is a crucial step in the endeavour of Mauritius to complete its decolonisation process, thereby enabling Mauritius to effectively exercise its sovereignty over the Chagos Archipelago.

The Chagos Archipelago has always formed and continues to form an integral part of the territory of Mauritius. The Chagos Archipelago was unlawfully excised from the territory of Mauritius prior to its accession to independence.

This excision was carried out in violation of international law and the provisions of the Charter of the United Nations, as interpreted and applied by pertinent resolutions of the United Nations General Assembly.

Prior to its independence, Mauritius had no legal competence, as a State, to give any consent to the excision of the Chagos Archipelago from its territory. Consent, if any, of the colony of Mauritius could not validate breaches of the UN Charter.

Moreover, Mauritius, as an independent sovereign State, has never entered into any agreement pertaining to such excision.

Mauritius does not recognise the so-called “British Indian Ocean Territory”. Nor does Mauritius recognise the sovereignty claim of the United Kingdom over the Chagos Archipelago.

Madam Speaker, as the House is aware, the UN General Assembly decided last September to include on the agenda of its current session an item relating to the request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965. This item, namely item 87, was included by consensus on the UN General Assembly agenda on the understanding, following a request by the United Kingdom, that there would be no consideration of the item before June 2017 and that thereafter, it may be considered upon notification by a Member State.

The consideration of item 87 was deferred in order to allow the United Kingdom to engage in discussions with Mauritius, aimed at the completion of the decolonisation process of Mauritius and the exercise of full sovereignty by Mauritius over the Chagos Archipelago. Three rounds of talks were held between Mauritius and the United Kingdom.

However, these talks became pointless as the United Kingdom was unwilling to discuss a date for the completion of the decolonisation of Mauritius. The proposals made by the United Kingdom during the talks were manifestly inadequate, failing to address the completion of the decolonisation of Mauritius.

Lord Ahmad of Wimbledon, Minister of State for the Commonwealth and the United Nations at the UK Foreign and Commonwealth Office, who asked to meet with me on 19 June, three days before the plenary meeting of the General Assembly, while I was in New York, reiterated the unwillingness of the United Kingdom to discuss about the completion of the decolonisation of Mauritius.

In the absence of any prospect of the completion of the decolonisation of Mauritius, our Permanent Representative to the UN in New York wrote on 01 June 2017 to the President of the UN General Assembly to request that item 87 be considered by the General Assembly. On 22 June 2017, a plenary meeting of the General Assembly was held to consider item 87.

I led the Mauritian delegation to that meeting, which included the Solicitor-General, the Permanent Representative to the UN in New York, the Special Adviser and the Senior Adviser at my Office and the Minister Counsellor at the Prime Minister’s Office as well as

Mr Olivier Bancoult, Chairman and Leader of the Chagos Refugees Group, and three other representatives of the Chagossian community.

Madam Speaker, the draft resolution which was prepared by Mauritius was tabled under item 87 by the Republic of the Congo on behalf of States Members of the United Nations that are members of the Group of African States. Argentina, Bolivia, Cuba, Ecuador, Nicaragua and Venezuela co-sponsored the draft resolution.

The draft resolution was also introduced by the Permanent Representative of the Republic of the Congo in his capacity as Chair of the African Group of Ambassadors in New York for the month of June 2017.

Following the statement of the Permanent Representative of the Republic of the Congo, I made a statement to call upon UN Member States to support the draft resolution.

Statements were also made by Venezuela on behalf of the Non-Aligned Movement and Angola on behalf of SADC Member States. India, Egypt, Kenya and Tanzania amongst others, which also participated in the debate, expressed their support for the draft resolution.

The draft resolution obtained the support of a large majority of UN Member States which hail from different parts of the world, namely Africa, Asia, the Middle East, Latin America, the Caribbean, the Pacific and Europe.

The draft resolution was adopted by a recorded vote of 94 in favour to 15 against, with 65 abstentions. A cursory look at the vote shows that only about 7.7% of 193 members of the United Nations did not support the resolution while over 92% were not against it.

I seize this opportunity to extend the heartfelt thanks of the Government and People of Mauritius to all the countries which have voted in favour of the draft resolution.

The adoption of the draft resolution is a historic moment not only for Mauritius, but for the African Union which has set itself the goal of ending by 2020 all remnants of colonialism on the African continent.

I would like with your permission, Madam Speaker, and I am sure hon. Members will agree, to express the deep appreciation of the House to our African brothers and sisters who have been unflinching in their support to Mauritius in this noble and just cause.

Madam Speaker, the request for an advisory opinion of the International Court of Justice bears testimony to the resolve of the UN General Assembly to fulfil its continuing responsibility to complete the process of decolonisation.

The legality of the excision of the Chagos Archipelago from the territory of Mauritius is clearly a matter of direct interest to the General Assembly. Differing views of one or more States on that issue do not make of the excision a mere bilateral matter. This has been made

absolutely clear by the International Court of Justice, including in recent opinions on Kosovo and the Wall.

The request for an advisory opinion of the International Court of Justice does not have any bearing on or adversely affect the security of any State. I have been conveyed to the authorities of the United States on several occasions, Mauritius has no objection to the continued operation of the military base in Diego Garcia within an agreed time bound framework for the return of the Chagos Archipelago to the effective sovereign control of Mauritius. I would also like to emphasise that the request for an advisory opinion of the International Court of Justice is in no way to be seen as unfriendly or hostile move towards any country.

The advice sought by the United Nations General Assembly will guide the United Nations in the fulfilment of its responsibility with regard to the completion of the decolonisation process. Madam Speaker, I would like to place on record my thanks to our team of officials in Mauritius as well as at our Mission in New York for their unrelenting efforts which have led to such an achievement. I also have a special word of thanks for our external legal team.

Last but not least, I would like to thank the Prime Minister for his commitment and personal involvement in the lobbying campaign that preceded the vote. I am sure that with such determination and assiduous work, we are going to succeed in the next steps of our struggle to complete our decolonisation. Our team is already at work preparing the submission to be made by Mauritius to the International Court of Justice.

Madam Speaker, I wish to conclude by reiterating that the long-standing struggle of Mauritius for the completion of its decolonisation process and the effective exercise of its sovereignty over the Chagos Archipelago and the right of Mauritian citizens, particularly those of Chagossian origin, to return to and resettle in the Chagos Archipelago are indissociable. Government remains sensitive to the plight of Mauritian citizens who were forcibly removed by the United Kingdom from the Chagos Archipelago in the wake of its unlawful excision from the territory of Mauritius and is committed to improving their well-being.

I would like to pay a special tribute to all those Mauritians of Chagossian origin who had dedicated their lives to the struggle for the Chagossian cause. I have in mind late Fernand Mandarin, Lisette Talatte and Charlésia Alexis, amongst others whose sacrifices will

certainly not go wasted with the new hopes that the historic UN vote has ushered. Mauritius has again proved it is a little great country and I once more appeal for national unity and patriotism to prevail when it comes to defend our sovereignty and territorial integrity.

Thank you, Madam Speaker.

BAI CO MAURITIUS LTD – ASSETS

The Minister Mentor, Minister of Defence, Minister of Rodrigues (Sir A. Jugnauth): Madam Speaker, during my intervention in the debates on the Appropriation 2017-2018 Bill (No. VII of 2017) on 12 June 2017, the hon. Leader of the Opposition objected to the remarks I made with regard to the BAI crash. He subsequently tabled copy of the Annual Report of the BAI Co. (Mauritius) Ltd. for the year ended 31 December 2013, to establish that the BAI Co. (Mauritius) Ltd. had Rs6 billion of assets in excess of liabilities.

Madam Speaker, the House may take note that BAI Co. (Mauritius) Ltd. was a subsidiary company of the BAI Group and that the ultimate holding company thereof was Klad Investment Corporation Ltd. Group, incorporated in the Bahamas. The Consolidated Financial Statements of Klad Investment Corporation Ltd. Group, for the Year ended 31 December 2012, revealed that it had incurred losses of 118,991,000 US Dollars (Rs3.6 billion) and that its total liabilities exceeded its total assets by 302,418,000 US Dollars (over Rs9 billion).

In its comments on the financial situation of the Group in September 2014, KPMG rang the alarm bell by stating, I quote –

“(...) these conditions, along with other matters, indicate the existence of a material uncertainty which may cast significant doubt on the subsidiaries ability to continue as a going concern. Our opinion is not qualified in respect of this matter.”

Madam Speaker, it is, therefore, clear that, on the basis of the Consolidated Financial Statements of Klad Investment Corporation Ltd. Group, for the year ended 31 December 2012 and from the comments of KPMG that BAI was already financially insolvent. I am tabling copy of -

- (i) The Consolidated Financial Statements of Klad Investment Corporation Ltd. Group, for the Year ended 31 December 2012, and
- (ii) The Minutes of the Audit Committee Meeting of BAI Co. (Mauritius) Ltd., dated 29 March 2011, including the Results of Audit of BAI Co. (Mauritius)

Ltd., ending 31 December 2010 by KPMG, establishing that BAI Co. (Mauritius) Ltd., was technically bankrupt.

The facts regarding the Minutes of the Audit Committee meeting of BAI Co. (Mauritius) Ltd. and those of the Results of Audit were not disclosed to the Financial Services Commission.

Thank you, Madam Speaker.

Madam Speaker: Hon. Soodhun, do you have a statement to make?

Mr Soodhun: No, thank you.

PUBLIC BILLS

First Reading

On motion made and seconded, the Outer Islands Development Corporation (Amendment) Bill (No. VIII of 2017) was read a first time.

Third Reading

On motion made and seconded, the Appropriation (2017-2018) Bill 2017 (No. VII of 2017) was read the third time and passed.

Second Reading

THE EXTRADITION BILL

(No. VI of 2017)

Order for Second Reading read.

The Attorney General (Mr R. Yerrigadoo): Madam Speaker, I move that the Extradition Bill (No. VI of 2017) be read a second time.

Madam Speaker, as I take the floor on a Bill of such importance not only for our domestic law, but international law, it is a pity that the whole of the Opposition chooses not to be in this House, especially in view of the fact that the PNQ which the hon. Leader of the Opposition addressed earlier to the hon. Minister of Foreign Affairs, Regional Integration and International Trade alludes to international law principles and I would have thought that when we are debating this Extradition Bill which is, as I shall explain, of vital and paramount importance, the hon. Leader of the Opposition and the hon. Members of the Opposition choose not to be present in this House.

So, Madam Speaker, it is with much pride that this Government brings this Bill to this House today. In fact, this Bill was long overdue since it seeks to bring about much-needed reform to a system which has existed since 1970.

Allow me, at the outset, just to inform the House that I intend to move for certain amendments at Committee Stage. The proposed amendments are being circulated, and these amendments, Madam Speaker, are intended to simply clarify certain provisions and address one or two procedural issues.

Madam Speaker, Extradition is the formal process by which a State surrenders to another State (i.e. the requesting State) an individual for the purpose of prosecuting an offence or imposing or executing a sentence in the requesting State. Such a process involves the following of certain procedures so as not to violate the sovereignty, jurisdiction and territorial integrity of States. Consequently, extradition procedures can prove to be extremely burdensome. In fact, they may act as a deterrent to effective international cooperation in criminal matters.

Therefore, it is becoming more and more important, in view of the internationalisation of crime and the ease with which criminals can cross borders in order to escape prosecution or punishment, to provide for effective measures of combating crime and ensuring that offenders are punished for their crimes. It goes without saying that one of the ways of achieving this is to have a proper legal basis for extradition, which will effectively respond to current and foreseeable needs.

Madam Speaker, our present Extradition Act, which dates back to 1970, has clearly become out-dated. It makes a distinction between Commonwealth and non-Commonwealth countries in matters of extradition. While it is expressly provided for in section 3A of the Act that Part II, which deals with extradition to foreign States, shall apply to all Commonwealth countries, it can be inferred from the definition of “extradition crime” that an extradition treaty should necessarily exist between Mauritius and non-Commonwealth countries for the purpose of extradition. It also follows, from a reading of section 3(1) of our current Extradition Act, that regarding extradition to non-Commonwealth countries, we have to see with which of them the United Kingdom had concluded extradition treaties and whether these have been extended to Mauritius.

Madam Speaker, such a system had to be reviewed in the light of various difficulties encountered in practice in relation to a number of requests for extradition to and from Mauritius. Therefore, with a view to enabling and facilitating extradition, even in the absence of treaties and to address and remove obstacles impeding extradition, the existing legislation has been reviewed to do away with the above distinction which exists between Commonwealth and non-Commonwealth countries, to simplify extradition procedures and to promote cooperation, without for that matter neglecting to make adequate allowance for the rights of persons whose extradition or arrest is sought.

Madam Speaker, in order to achieve the above objectives, the existing Extradition Act is being repealed and replaced by a new legislation which makes better provision for the extradition of persons from and to Mauritius, more particularly, to –

- (a) place all foreign States on the same footing regarding extradition of persons from Mauritius;
- (b) make special provision for offences of a fiscal or military nature;
- (c) make particular reference to counterterrorism conventions;
- (d) bring out more clearly the dual criminality requirement for extradition;
- (e) afford better protection against extradition from Mauritius to citizens of Mauritius;
- (f) enable the Attorney-General to refuse to grant, in the public interest, a request for the extradition of a person from Mauritius, and
- (g) generally provide better guidance to the relevant authorities that are required to deal with requests for extradition.

Madam Speaker, having set out the general background, I shall now come to the main provisions of the Bill. The Bill is, in fact, divided into 6 parts, the most substantive parts being Parts II, III, IV and V, which are, respectively, entitled “Extraditable and Non-Extraditable Offences”, “Extradition from Mauritius”, “Extradition to Mauritius” and “Transit Proceedings”.

Clause 4 of the Bill provides the basis for extradition from Mauritius. In essence, a person may, on the request of a foreign State, be extradited pursuant to an extradition treaty

for the purpose of prosecuting that person for an extraditable offence, or imposing or executing a sentence of an extraditable offence against that person. Consequently, the definition of “extradition treaty” has been widened as follows –

- “ (a) *means an agreement, an arrangement or a bilateral treaty between Mauritius and a foreign State, or a multilateral treaty to which Mauritius is a party, and*
- (b) *includes a treaty made before 12 March 1968, which extends to, and is binding on, Mauritius, which contains provisions governing the extradition of persons from Mauritius; ”*

Clause 4(2) of the Bill further provides that a request for extradition by a foreign State may also be considered by virtue of comity, i.e., courtesy, where that State gives assurances which, in the opinion of the Attorney-General, are sufficient to ensure that it would comply with a comparable request from Mauritius or where, in his opinion, it is otherwise in the interests of justice to do so.

Madam Speaker, it should be pointed out that extradition will be considered only in relation to extraditable offences. Thus, pursuant to clause 5(1) of the Bill, extradition will only be considered where –

- (a) the offence for which it is requested is punishable under the laws of the requesting State by imprisonment or other deprivation of liberty for a term of not less than 2 years, and
- (b) the act which constitutes the offence would, if committed in Mauritius, constitute an offence which is punishable under the laws of Mauritius by imprisonment or other deprivation of liberty for a term of not less than 2 years.

In determining whether an offence is an offence punishable under the laws of Mauritius or those of the requesting State, it shall not matter that –

- (a) the laws of Mauritius and those of that State do not place the act constituting the offence within the same category of offences, denominate the offence by the same terminology, or define or characterise it in the same way; or

- (b) the constituent elements of the offence are different under the laws of Mauritius and those of that State, subject that the totality of the act constituting the offence as presented by that State shall be taken into account.

Madam Speaker, under clause 5(2), an act which contravenes the laws of the requesting State relating to tax, duty, customs or exchange control shall be an extraditable offence where it corresponds to an offence of the same nature under the laws of Mauritius. Moreover, extradition shall not be refused on the ground that the laws of Mauritius do not impose the same kind of tax, duty, customs or exchange control, or do not contain tax, duty, customs or exchange laws of the same kind as the laws of that State. Clause 6 deals specifically with counterterrorism conventions.

Under sub clause (2), where Mauritius is a party to a prescribed counterterrorism convention, and there exists no extradition agreement or arrangement between Mauritius and a requesting State which is also a party State to that convention, the convention shall, for the purpose of extradition, be treated as an extradition agreement or arrangement between Mauritius and that State in respect of offences falling within the scope of the convention, and those offences shall be extraditable offences.

Clauses 7 and 8 of the Bill, Madam Speaker, provide for non-extraditable offences. In a gist, a request for the extradition of a person by a foreign State shall not be favourably considered where, in the opinion of the Attorney-General, there are substantial grounds to believe that the offence for which that person is sought is of a political nature, or the request is made for the prosecution or punishment of that person on account of his race, religion, nationality, ethnic origin or political opinions, or that person is likely to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

Clause 9 lists other grounds where a request for extradition of a person by a foreign State may or shall be refused. For example, such a request shall be refused –

- (a) where there has been a final judgment rendered and enforced against the person sought in respect of the offence for which extradition is sought;
- (b) where prosecution or punishment is barred by lapse of time, prescription or a statute of limitation;
- (c) where the offence carries death penalty in the requesting State;
- (d) on the basis of extra-territoriality, and

- (e) where less than 6 months of the sentence of imprisonment or any other deprivation of liberty remains to be served by the person sought.

Madam Speaker, as regards the procedure for extradition, clause 10 of the Bill provides that a request for extradition by a foreign State needs to be made through diplomatic channels and the request should be accompanied by a number of documents in support, which have been listed in the said clause, depending on whether the person sought is charged with an offence or is convicted of an offence.

Clause 10(2) further provides that a request for extradition and the documents in support shall not require certification or authentication unless the relevant extradition treaty provides, or the laws of Mauritius provide, otherwise.

Clause 11 provides for the manner in which the Attorney-General shall deal with requests for the extradition of a person received from more than one foreign State and the factors which the Attorney-General shall consider in determining which of the requests shall be considered first. These factors are, in particular, listed as being –

- (a) the seriousness of the offences;
- (b) the dates on which the requests were made, and
- (c) the nationality, citizenship or ordinary residence of the person sought.

Madam Speaker, clause 13 of the Bill provides for the examination of a request by the Attorney-General who may also request that additional information be furnished.

Clauses 14 and 15 of the Bill deal with requests for the arrest of a person sought. They provide for –

- (a) the circumstances where the Attorney-General may apply to a Magistrate for an order for the arrest of that person;
- (b) the circumstances where the Magistrate may order the arrest of that person, and
- (c) the circumstances where that person who has been arrested shall be discharged.

Madam Speaker, proceedings after arrest are covered under clause 16 of the Bill, whereby the Magistrate is empowered to order the detention of the person in custody or admit him or her to bail and to set a date for the extradition hearing.

Clause 17 of the Bill caters for the search and seizure of the property of a person sought who has been arrested pursuant to clause 14 or 15. It further provides that the Attorney-General may, on a request from the requesting State, direct that any property seized or otherwise secured following an order from the Magistrate be surrendered to that State.

Clause 18 of the Bill, Madam Speaker, is very important as it deals with the actual application and eligibility for extradition. Under sub clause (1), the Attorney-General shall apply for an order from a Magistrate that the person sought is eligible for extradition. Sub clause (2) sets out the factors which a Magistrate will need to consider before deciding on the eligibility for extradition. The Magistrate will have to be satisfied that –

- (a) the requirements of the relevant extradition treaty are met;
- (b) the act constituting the offence is an extraditable offence;
- (c) the person brought before the Magistrate is the person sought, and
- (d) in case extradition is requested for the purpose of prosecution in the requesting State, there is admissible evidence considered sufficient to justify the committal of the person sought for trial for the relevant offence if that offence had been committed in Mauritius.

On the other hand, sub clause (3) provides for circumstances where the Magistrate shall not order that the person sought is eligible for extradition.

Madam Speaker, under clause 19, the decision of the Magistrate pursuant to clause 18 is liable to judicial review before the Supreme Court.

Clause 20 provides for a simplified extradition procedure by virtue of which a person sought may consent to be extradited to a requesting State without the formal extradition hearing provided for under clause 18.

Where a Magistrate or the Supreme Court, as the case may be, decides that a person sought is eligible, the Attorney-General may order the extradition of that person to the requesting State. Clause 21 of the Bill, therefore, provides for the circumstances where the Attorney-General may order or refuse to order the extradition of a person to the requesting State. As far as the procedure for the extradition of a person sought is concerned, it shall be ordered by means of an extradition warrant, issued by the Attorney-General, which shall contain the information listed in clause 22(2).

Madam Speaker, if we turn to clauses 23 and 24 of the Bill, they respectively provide for the circumstances where the Attorney-General may postpone the extradition of a person sought or order the temporary extradition of that person sought to the requesting State.

It should be noted that under clause 25, where an act committed outside Mauritius by a person sought constitutes an offence under the laws of Mauritius, the Director of Public Prosecutions may, where the person sought is not extradited, and notwithstanding any other enactment, institute proceedings against that person as if that act had been committed in Mauritius.

Moving on to Part IV of the Bill, Madam Speaker, that Part deals with extradition to Mauritius. Under clause 26, the Attorney-General may make a request to a foreign State for –

- (a) the extradition of a person for the purpose of prosecuting an offence, or imposing or executing a sentence in respect of that offence, over which Mauritius has jurisdiction;
- (b) the arrest of a person pending a request for extradition.

The next clause, clause 27, provides that a person who has been extradited from a foreign State to Mauritius shall not, except in the circumstances set out in the said clause, be detained, prosecuted, sentenced or subjected to any other restriction of personal liberty in Mauritius or, be re-extradited to another foreign State, for any offence committed before his extradition, other than that for which he was extradited, unless –

- (a) that State from which that person has been extradited has expressly given its consent; or
- (b) that person, having had an opportunity to voluntarily leave Mauritius, has not done so within 21 days of his final discharge in respect of the offence for which he was extradited.

Madam Speaker, Clause 28 of the Bill provides for an application by the Attorney-General to a Magistrate for the temporary detention of a person who has been extradited to Mauritius where the charge for which the person had been extradited has been dismissed in Mauritius.

Provision is made, under clause 29, for an order from a Magistrate for the detention in custody of a person who has been temporarily extradited to Mauritius for the purpose of a prosecution or an appeal.

It is also to be noted that on completion of the proceedings in Mauritius for which a person was temporarily extradited or, on the expiry of the period set out in a Magistrate's order, whichever is the sooner, the person shall be returned to the foreign State.

Madam Speaker, Part V of the Bill deals with transit proceedings. Clause 30(1) thus provides that where a person is being extradited from a foreign State to another State, that is, receiving State through Mauritius, the Attorney-General may, at the request of that receiving State, allow the transit of that person in Mauritius.

Clause 30(3) further provides that where transit is allowed, the transferee shall be detained in custody in Mauritius for a period not exceeding 24 hours or for a longer period if so requested by the receiving State.

Furthermore, clause 31 provides for cases where an unscheduled landing in Mauritius occurs, i.e., where air transport is used for the transit and no landing in Mauritius is scheduled. The transferee may, in such cases, at the request of the person escorting the transferee, be detained in custody for a period not exceeding 48 hours pending receipt of the transit request from the receiving State.

Finally, Madam Speaker, Part VI of the Bill deals with miscellaneous provisions. The two provisions worth highlighting are clauses 32 and 35. Clause 32, which relates to the costs of extradition proceedings, provides for the costs to be borne by Mauritius or a requesting State. Mauritius shall thus meet the costs of any proceedings within its jurisdiction arising out of a request for extradition, as well as the costs incurred in its territory in connection with the seizure and surrender of property or the arrest and detention of the person sought. On the other hand, the requesting State shall bear the costs related to the translation of documents, as well as the costs incurred in conveying that person from Mauritius, including transit costs.

Clause 35, Madam Speaker, has been specifically inserted to make it very clear that any process already initiated under the repealed Extradition Act shall continue to be processed and completed under that Act. The new Extradition Act will, therefore, only apply in relation to new requests for extradition to and from Mauritius once the law comes into operation. This saving provision should certainly dispel the fears and doubts of all those who have been labouring under the misconception that this Bill is being brought for any political reasons or to target any specific persons.

The House will note that the present Bill tries to strike a certain balance between the need for cooperation in the international battle against crime and the need to provide persons sought with fundamental guarantees of their human rights. The fight against international

crime being a never-ending warfare, the Bill addresses certain existing difficulties in the area of extradition and is, in fact, an endeavour to improve assistance in criminal matters at international level.

As I stated at the very start, Madam Speaker, the time for reform had been long overdue. For more than 40 years, we have been operating under a law which had become outdated. Time and again, practical difficulties were encountered both whilst dealing with requests for extradition to and from Mauritius, principally when the other State was one with which Mauritius had no extradition treaty.

Madam Speaker, I should add that this is not a Bill which has been generated overnight. I would like the House to know that my Office has, since as far back as 2008, been working on a draft legislation to reform the existing extradition procedure. However, matters stood at a standstill since then.

On this side of the House, we are confident, Madam Speaker, that this Bill marks an important turning point and will help to promote better international cooperation and assistance in criminal matters.

Madam Speaker, before I end, I wish to thank the Parliamentary Counsel and her team for the work that has gone into the drafting of this legislation. I also wish to pay special homage to Mr Shah Nawaz Namdarkhan, former Principal State Counsel from my office, who sadly passed away at a very young age some two weeks ago. Mr Namdarkhan had not only worked on a number of extraditions requests, but had also been involved in the drafting of the present legislation and in extradition treaty negotiations with other countries on behalf of the Republic of Mauritius.

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

Thank you.

The Prime Minister rose and seconded.

Madam Speaker: I suspend the sitting for 30 minutes.

At 4.38 p.m. the sitting was suspended.

On resuming at 5.32 p.m. with the Deputy Speaker in the Chair.

The Deputy Speaker: Hon. Gayan!

The Minister of Tourism (Mr A. Gayan): Merci, M. le président. M. le président, permettez-moi, en premier lieu, de féliciter l'honorable *Attorney General* pour sa présentation de ce projet de loi et pour le brillant exposé qu'il vient de faire dans cette auguste Assemblée.

L'extradition est un sujet très complexe, parce que c'est un sujet qui traite plusieurs aspects du droit national, du droit international public, des droits des personnes, la nature des offenses ; qu'est-ce qu'est une offense et qui peut faire le sujet d'une demande d'extradition, le rôle des juges et des magistrats, la discrétion de l'*Attorney General* et aussi la politique. Je viendrais tout à l'heure sur l'aspect politique, mais c'est un sujet technique également. La philosophie derrière l'extradition est qu'il faut mettre un terme à l'impunité.

Avec le système que nous avons aujourd'hui, avec la facilité de voyages, il y a beaucoup de personnes qui commettent des crimes dans un territoire, et s'enfuient pour aller dans un autre territoire, et très souvent, ils choisissent un pays qui n'a pas de traité d'extradition avec les pays où ils ont commis le crime. C'est pour cette raison qu'il est nécessaire pour notre loi d'être modernisée, d'être actualisée, parce que notre loi, comme l'a dit l'*Attorney General*, date de 1970, deux ans après que l'île Maurice soit devenue indépendante. Je crois que presque 50 ans après, il faut qu'on revoie cette loi, et il faut qu'on fasse les ajustements nécessaires pour que notre loi devienne une loi qui réponde aux exigences des temps modernes.

M. le président, l'extradition est une procédure par laquelle un Etat requérant demande à un Etat requis de lui livrer une personne ayant commis des crimes se trouvant sur son territoire afin de la juger ou de lui faire exécuter une sentence, sa peine d'emprisonnement, par exemple. L'idée principale demeure que personne ne doit jouir de l'impunité. Pour pouvoir le faire, il faut qu'il y ait des conditions qui soient réunies avant qu'un Etat puisse faire la demande pour faire extrader une personne. La tradition a toujours voulu qu'il y ait un traité entre un Etat demandeur et un autre Etat avant de faire déclencher le mécanisme de l'extradition. Cela a toujours été le concept traditionnel et c'est toujours le cas. Il faut qu'il y ait, soit un traité bilatéral, soit un accord entre les Etats ou une convention multilatérale qui permet l'extradition des personnes qui ont commis des offenses.

Le projet de loi qui est devant nous - je dois féliciter encore ceux qui ont rédigé ce projet de loi - est très, très bien rédigé, tous les scénarios possibles ont été envisagés et il n'y a aucun problème qui puisse surgir sans qu'il y ait une réponse à l'intérieur de ce projet de loi. C'est pour cette raison que je félicite l'honorable *Attorney General* et son équipe pour avoir présenté un projet de loi vraiment complet et très, très approprié pour le temps moderne.

Mr Deputy Speaker, Sir, let me say that extradition, which I have said, is a legal process by which one country hands over a fugitive to another country, where that person has been accused, convicted of a crime, is a concept which dates many, many years, many centuries.

In fact, as a concept, it originated with the ancient Egyptian and Chinese civilisations and this followed from an unsuccessful Hittite invasion of Egypt, which led to an extradition agreement formed as part of a peace treaty between Ramses II and the Hittite King, Hattusili III. It is incredible that this still exists.

But it was not until the Treaty of Falaise in 1174 A.D that an English monarch officially made provisions for extradition. The treaty between Henry II and William of Scotland set out a mutual extradition agreement between the Scots and the English. It is significant, Mr Deputy Speaker, Sir, that one of the earliest and most notorious recorded cases of extradition within Britain dates back to 1591, when an Irish Nobleman and rebel called Brian O'Rourke fled to Scotland. At that time, Queen Elizabeth demanded that this particular person be transferred from Scotland to England. She used a treaty of 1586 to secure the custody of that particular person. And that person was transferred to the Tower of London where, as you can imagine, he was executed.

Since then, countries have signed treaties, bilateral treaties and other kinds of treaties so that they are not totally helpless when they are faced with the situation where somebody, who has committed a crime or an offence, flees to another country and refuses to come back.

Mr Deputy Speaker, Sir, extradition is something that connotes lots of emotions. Without getting into the detail of the request made by Mauritius for the extradition of Mrs Soornack from Italy, I consider that the request was made according to our law and according to what any other country would have considered fair for that person to be extradited, but we know what happened.

By the same token, we have right now, a French couple in Mauritius, who have allegedly committed money laundering crimes in France, and there is a request for their extradition back to France. So, this is why the law speaks of comity between countries, understanding between countries, that there may be a situation where even when there is no bilateral treaty it is possible, in order to combat international crime, to have a sort of

arrangement where people are transferred to the countries where they committed a crime so that they are prosecuted, convicted and then sentenced.

There have been famous cases, Mr Deputy Speaker, Sir. I deplore the absence of the Opposition, because this is a debate which concerns everybody, this is a debate which transcends, as I have said, lots of issues, but it also concerns high politics. You will recall the President of Panama, Manuel Noriega, who was extradited from Panama to the United States for drug-related offences. Manuel Noriega died recently in prison. We also have the famous case of Pinochet. I am sure that everybody will remember the case of Pinochet. That case really illustrates the huge dimension of international politics, power, pressure, law, immunity, and all sorts of things that come into what basically is a simple case for extradition.

In the Pinochet case, Pinochet had been the Head of State of Chile. When he was Head of State, there were atrocities committed, people were tortured. He happened to be in London, when there was a request by a Spanish Magistrate to have him arrested and extradited to Spain because some of the Spanish had also been tortured, and there was a link between the request being made by the Spanish Authorities, on the ground that their own citizens had suffered at the hands of Pinochet. That case had lots and lots of trials and hearings. The point that was taken by Pinochet was: 'Even if I committed those crimes, I am immune from being extradited because I happen to be the Head of State.' Then, according to the Public International Law, Heads of States enjoy immunity, the immunity not to be prosecuted, not to be extradited for whatever they do while they are in office. This is the argument that was used by the lawyers of Pinochet that he should not be submitted to the jurisdiction of the English Courts because he enjoyed immunity.

There were various levels of cases. One lower Court decided that he enjoyed immunity and, therefore, the request for extradition failed, but that did not end there because the case went on appeal to the House of Lords. By a strange coincidence, the judges who heard the case thought that immunity did not apply because not only was there a Convention against Torture by the time the case was being heard, but there were also cases of torture which had been committed after the Convention had come into place at a time when Pinochet was responsible of Chile. Then, the House of Lords said that the case could proceed, but it was up to the Home Secretary in England to decide whether he was going to go ahead with the extradition proceedings or whether he was going to have him released.

In view of the media attention, it was not possible for the then Home Secretary to take the decision to release Pinochet. This is why I say the Attorney General here has a big role to play because he has a huge discretion. He can decide to extradite or not for a variety of reasons which he mentioned and which are present in the Bill before the House. Then what happened is that the lawyers of Pinochet found that one of the judges who had heard the case and who had decided that extradition proceedings could continue, happened to be connected with Amnesty International, Lord Hoffmann.

(Interruptions)

And his wife. The point was taken that there may be a case of bias. In fact, it is the famous case of bias! Although there was no actual bias, but the perception of bias was sufficient. It is significant that Lord Hoffmann, who was a great judge – I think he passed away - the point was taken that he should have disclosed his connections with Amnesty International and had he done so, it is very likely that no one would have taken the point that there was a problem of bias, but he had not and the point was taken. Lord Hoffmann wrongly assumed that his connections were known to everybody, so, there was no need for disclosure or that he had such a reputation as an outstandingly rigorous and objective judge that no one would even presume any likelihood of bias on the part of such a judge. But then the case had to be heard again. The case was heard again and this time before a 7-judge panel. That panel decided again that they could not overrule the decision of the previous Court, but they said that the proceedings could continue anew.

Then, again, the ball was in the court of the Home Secretary who had to decide whether to go ahead or not. Then by a quirk of coincidence, the Convention against Torture also came into existence. The Convention against Torture was used as an argument to say that since torture is a crime recognised by *jus cogens*, customary international law, all countries have universal jurisdiction to try any person accused of torture.

We, technically in Mauritius, can try anybody committing torture anywhere in the world. So, it is a convention of universal application. This again is a matter which was taken up, the consideration to be given to the Convention against Torture on immunity, even then the point that had to be made was that the judges did not want to release Pinochet. They passed the buck to the Home Secretary. The Home Secretary did not want to take that decision. Finally, after lots of hearings, there was another point taken that Pinochet was unfit to stand trial on medical grounds. Fortunately, the Medical Board found that he was unfit to

stand trial. Because it was a request made by the Government of Chile and the Board found that he was unfit to stand trial, he was released but the other parties wanted to know what was contained in the medical report. What did the authority then say? Medical reports are confidential. They should not be disclosed and they were not released. This is how Pinochet happened to go back to Chile for reasons which were not legal, but there was a lot of political pressure. In those days, United States was a close ally of Chile and they also put pressure. So, the way out was to get the doctors. Doctors are very famous in finding all sorts of fitness to plead or otherwise and this is what happened in that particular case.

Apart from Manuel Noriega, apart from Pinochet, there have been other cases also. I mean, even in Africa, we have, Mr Deputy Speaker, Sir, the case of Charles Taylor who was extradited to the International Criminal Court. But we must also remember that when we talk of extradition, we have to look at it against the architecture of international criminal law. We have today the Rome Treaty on the International Criminal Court. The International Criminal Court has jurisdiction over certain crimes, crimes against humanity, genocides and war crimes; torture comes under the Convention against Torture. Basically, these are the three major crimes that the ICC deals with. But the jurisdiction of the ICC depends on whether or not the State whose national is being sought to be sent to the ICC is not prepared to prosecute him for the offences committed. It is only when there is unwillingness on the part of the home State that the ICC comes into play. It must be remembered also, Mr Deputy Speaker, Sir, that we are talking of a rule-based system. Nobody can come to Mauritius and say: 'okay, I want this person extradited', and the person just goes away. There must be a request through bilateral diplomatic channels. That request must be accompanied by a full brief containing all the information, what are the offences committed, etc. and this is studied by the office of the Attorney General before a request can be made to a Magistrate.

So, this is why it is important for this Bill to be addressed by everybody because it deals with every single aspect of the request. Of course, there are other conditions that need to be fulfilled before a request can be granted. It cannot be for any offence. It has to be an offence which carries, at least, a 2-year minimum sentence. It must also be an offence both in the country where the request is being made and in the requesting State. The offence may not be couched in the same way, but the substance must be the same. So, these are things that are important.

There is also another thing that we must remember and this is something which is constant in all jurisdictions that a country does not extradite its own nationals and this also is provided in our Bill. This dual criminality element is critical for any processing of the extradition request. If you do not have the dual criminality test satisfied then there would be no extradition that is ordered by a court. Of course, the courts in Mauritius are independent, they will decide on the basis of the evidence that is put before them and there are also procedures for judicial review. So we have given all the safeguards possible to anybody so that once a person is ordered to be extradited that person would have exhausted all possible remedies that he can avail himself of.

So it is important that we bear in mind that we are looking at a rule-based system which applies to everybody. We must also remember that if the request is being made for a political reason then there will be no follow up on that because we, as a State, will not be party to rendering anybody who is being sought by the requesting State for offences of a political nature. I do not wish to go through the various aspects which the hon. Attorney General has mentioned but it is important to bear in mind that a person against whom a request is made can decide himself: yes I consent to be extradited. Voluntary extradition, that also he can do. In cases where the Attorney General considers that sufficient assurances have not been given with regard to the health or safety or security of the person, the Attorney General can request the assurances to be given. It is normal in international relations that when a State gives an assurance then that State is going to honour its assurance otherwise there will be no comity between States; there will be no arrangement that can be worked out with regard to those who are likely to be extradited.

Mr Deputy Speaker, I would like to say something else. As I said, the Bill is comprehensive, it is complete, and it covers all possible aspects. I do not want to dwell on that, but I would like to say something about the role of the Attorney General. The Attorney General has various powers which are given to him. He exercises those powers and the discretion that he has in a quasi-judicial manner. He is not simply somebody acting as the Executive just processing a request. He has to apply his mind to the request. He has to see and assess whether the request is being made bona fide for a crime which is an extraditable crime; whether the person who is being extradited will be given all the guarantees of a fair hearing and whether he will not be subjected to a sort of sentence that is inhuman or cruel or degrading or whatever. In some countries, for example, the United States has the death penalty. There have been cases in the UK where the United States has requested people to be

extradited. The Government of the UK has insisted that the United States gives an assurance that these persons will not be sentenced to the death penalty. So, these kinds of assurances can be sought for and they will be given.

Last week, we had the resolution at the United Nations on the Chagos Archipelago. I am sure this House is aware of the outrageous system of rendition. It is good that we mention rendition because that was an extra-judicial, extra-legal way of getting somebody into the custody of the United States. That has been condemned by the international community and we must also condemn it because we believe that States have to act fairly in good faith. If there are serious grounds for anybody to be extradited then the State has to come forward and make a request in the normal way. It is not right for any State to use the muscle that the State has just to pick somebody from a place and take him over to another place which is called rendition. So, rendition is something which is not permitted under the extradition treaty. All renditions are irregular, unlawful and should be condemned. History also teaches us, Mr Deputy Speaker, that especially after the Second World War when there were some Nazi war criminals, they were hunted by the Israelis, by the Jews. In many of the Latin American countries, they were kidnapped and taken back to Israel to stand trial. That also is something that we should condemn.

Another thing that States do is to lure somebody. Let us say that X is in country A, country A does not have a treaty with country B of which country A is a national but country C has. So, what some States do is to try to lure country A into country C where the request for extradition can be made. Luring also is something which the international law system sanctions. It should not be a procedure that we should adhere to, but there is something else which unfortunately States do apply and that is expulsion and deportation. It is one way of bypassing the extradition process just by cancelling the travel documents of a person and expelling or deporting that person. We believe, at least, I consider that expulsion or deportation should not be resorted to by any State because we are moving, the whole world is moving towards a system of lawfulness, a legal architecture for the extradition of people.

There are systems, there are rules that can be applied and we have to work on the basis that all States act in conformity with international law. They will do whatever has to be done. The test for extradition is a very high test; they are all set out in the Bill. So due process of law has to exist, there must be a reasonable suspicion of somebody having committed a

crime but apart from politicians and presidents, there are also other people who are concerned with this situation of extradition.

I'll like to mention the case of Roman Polanski. Roman Polanski was arrested in 1977 in the United States on a number of charges related to having sex with a 13-year old girl. Polanski was a citizen of both Poland and France and he agreed to a plea deal. He pleaded guilty to the charge but before he could be sentenced, he fled to France and France does not extradite its own nationals. So he stayed in France for many, many years from 1977 to 2009 when he decided to travel to Switzerland. When he travelled to Switzerland, he was intercepted by the Swiss Authorities and then procedures for extradition started. France does not extradite but Switzerland accepted the request of the United States that Polanski should be transferred to the United States. So I am saying that no one is immune, however famous you are you can be caught in the net of extradition if you make a mistake. Polanski made a mistake of moving to a country where he no longer enjoyed the protection of France. Had he stayed in France he would have been untouchable. The moment he moved out of France then the authorities in Switzerland started acting against him. Mr Deputy Speaker, the Bill is, as I said, comprehensive.

I would like to say that when we look at this Bill, it does provide a framework where everybody will know what are his rights and where the obligations of the State end. It is something that is highly relevant because we are moving into a system where there will be increasingly people moving from one place to another committing crimes, crimes having an effect in one country or having effects or consequences in a multiple of countries. So, there will be multiple requests. Even that is taken care of in the Bill. Transit passage also is taken care of.

I believe that this Bill is very important for combating international crime. It is very important for sending the signal that no one will enjoy impunity, that wherever and whoever you are, you will be subjected to a process where the law will be able to reach you. This is why, Mr Deputy Speaker, Sir, I am very happy that this Bill has come to this House, and I congratulate once again the hon. Attorney General for having presented it to the House.

Thank you very much.

The Deputy Speaker: Hon. Mrs Jadoo-Jaunbocus!

(6.03 p.m.)

Mrs R. Jadoo-Jaunbocus (Second Member for Port Louis South & Port Louis Central): Thank you, Mr Deputy Speaker, Sir. We have today to debate on this Bill, that is the Extradition Bill (No. VI of 2017). This is a long awaited debate, Mr Deputy Speaker, Sir, and I do join hon. Gayan to congratulate the Attorney General for coming with this Bill after so many long years. Again, I join hon. Gayan to say that it is a shame that we have to stand here, only this side of the House, debating on this Bill. Why? Because of the importance of that Bill. Why? Because of the impact that this Bill will have and we have always said that the Government has welcomed constructive debates and constructive criticisms. This, I believe, when we are talking about international matters, would have been the appropriate forum to actually come and give one's opinion because we are dealing with a serious legal matter with serious implications about human rights and personal rights. Yet, we find the other side of the House eloquent in their absence, eloquent in their walkout and the manner in which they have dealt in this House today.

Nonetheless, we proceed because I am sure once the Bill will be passed by this House, - it will indeed, I am sure - we will have a number of criticisms outside. I will talk about criticisms in a minute, Mr Deputy Speaker, Sir, but, first, let me take everybody back to the 1970s when the Extradition (Commonwealth Countries) Act was passed at its First and Second Readings. At that time, as stated by late Mr Ringadoo, the main object of the Bill was to implement in the law of Mauritius the Fugitive Offenders Scheme formulated at the Commonwealth Law Ministers Meeting held in 1966. So, this is the basis of the Extradition Bill that Mauritius has been applying so far.

Yet, time has moved on and what do we see through the debates - when I tried to make researches on account of this Extradition Bill, in the past whether there had been debates or not - we see there have not been much debates when there were the First and Second Readings of this Extradition (Commonwealth Countries) and the Extradition (Foreign States) Bill in the 1970s. But what we see is there have been a number of debates in Parliament when we were dealing with cases such as the case of Teeren Appasamy, the case of the French nationals who were requiring repatriation, extradition at that time. What was really obvious in all the debates and, indeed, what was said at that time, I refer the Deputy Speaker to the debate of 19 April 2011 upon a question put by hon. Ganoo, the then Member for Savanne and Black River, which was replied by the hon. Prime Minister. What had he

stated in essence that there is an absence of mutual assistance in such cases and that this had to be extended on the basis of reciprocity when talking about France. What was then obvious was the lack of legislation to cover this aspect of the law and indeed this was reiterated on 14 April 2015 when Mr Soccoja from France visited Mauritius and what he stated was this -

“While multilateral diplomacy is useful and indispensable to fight against the international criminal phenomenon, it is not sufficient.”

That is what he said.

“There should also be bilateral conventions to address particular and geographical challenges that are specific to bilateral relations. These challenges call for an adapted response, and hence, the resumption of negotiations on extradition.”

This is what he said in 2015, and what we have is indeed this Bill. That is why I go through all this to say that the hon. Attorney General has indeed come up with a Bill which is very much in need. What I find sad when perusing what has been said - and I did refer to the criticisms made by the Opposition and the absence of the Opposition - I was perusing, I believe, the ‘Sunday Times’ online edition, and what they had to say in their analysis of this Bill to be presented before this House is that they refer to the case of Nandanee Soornack. They said that this Bill in essence is aimed so that a lot of speculations can be left open -

“(...) concernant la stratégie que le gouvernement compte adopter dans le cas de Nandanee Soornack, celle-là même qui avait nargué les autorités mauriciennes, il y a quelque temps de cela.”

So, what it is trying to say is that, in essence, the reason and the motivation behind the Bill is Nandanee Soornack. Mr Deputy Speaker, Sir, I will say: “No”. We are not here because of Nandanee Soornack. We are not debating this Bill because of her. We are debating this Bill because of all the international impact that it has with the increasing advent of criminality, globalisation of crime. This is why we are debating this Bill. We also have serious issues.

There was a storming walkout because of drugs by the hon. Members of the Opposition. Yet, do we realise what impact this Bill will have on international drug traffickers be it overseas, be it in Mauritius? Where is the concern of these hon. Members of the Opposition who are so concerned about the State of Mauritius and the world out there

about drug issues? They don't care! They made a boom and walked out so as to make the headlines. They don't really care about what really affects the smooth running of the country, the bringing down of criminality and the reduction of drug crimes in the country. Had they cared, they would be sitting here and ensuring in the debates of this Bill that there are sufficient safeguards and guarantees. Nonetheless, I am quoting a very famous Judge: "Whether you are here or not, justice is done". So, whoever is here or not, the Government will ensure that the debate is fair and balanced and that everybody's rights are being respected.

As I said, and as has been said by the hon. Attorney General, the purpose of this Bill is to modernise and streamline our extradition laws and procedures. We are, in this Bill, providing for a fast track process of surrender between countries and we are also endeavouring to simplify the process of extradition to other countries because it is two-limbed.

While so doing, if I may say, we must ensure, and the Bill has ensured that there are necessary safeguards to prevent injustice. It is argued that when we look in the past and in the previous Extradition Bills, they are no longer fit for purpose as crime has become increasingly global particularly in light of the rise of online crimes.

Mr Deputy Speaker, Sir, extradition law is based on founding principles and we must be clear about these principles so as we do not misunderstand this Extradition Bill that is being read in this House on its Second Reading. Extradition, indeed, is based on committee and cooperation between States. It requires countries to accept within limits the criminal justice system of others. Extradition is, indeed, based on comity and cooperation between States. It requires countries to accept within limits the criminal justice system of others. Such acceptance is the founding principle, it is not absolute. For example, when we look at certain countries and, indeed, in Mauritius and we look at the Bill itself – if I have just one minute to refer to the Bill - Clause 8 of the Protection of Human Rights Bill ensures, indeed, that the country has to accept and ensure that the country has the responsibility to protect the rights of those it is foreseeing to extradite, that is, we have to protect that person from human rights abuse.

Extradition, it is clear and we must be clear, is not a process concerned with determining the innocence or guilt of that person. It is a matter that will be dealt in the trials, subsequently, once the person is extradited. However, if ever that person is guilty it will be

for the issuing State to consider. The fundamental purpose of the extradition is to bring criminals to justice, the interests of the victims of crime must, therefore, be considered.

We have a number of safeguards put in the Bill, and one of the safeguards, as I have just highlighted, is the constitutional rights in section 8 of the Human Rights which are being respected. In fact, Section 8 subsections (a) to (d) are, in fact, assurances which are also repeated, which also appear; they are basic human rights, and they are basic fundamental constitutional rights of the Mauritians under the Constitution. This Bill has endeavoured, has ensured that these rights are protected, that is, no one will be extradited on account of his race, religion, nationality, ethnic origin and political opinions, and I highlight that part, political opinions. No one is likely to be extradited if in that State he is going to be subjected to torture or cruel inhuman or degrading treatment or punishment, or if that person is not likely to receive the minimum fair trial guaranteed in criminal proceedings in the State.

I will not go into a lot of details about that because, as highlighted by hon. Gayan, he talked about the famous Pinochet case. There are a number of cases that have made the headlines internationally, for example, that of, as we call it, Lord Joaquin 'El Chapo' Archivaldo Guzman Loera in the United States and so other many cases.

We have a provision in the Bill which is that of assurances in order to offset the risk of extradition leading to human right abuses and I would urge that Courts when applying and when considering applications under the Bill once it becomes law - how shall I say - is very mindful and is very receptive and are effective in the need of balancing human rights of the person against the public interest in the administration of justice through extradition because, at the end of the day, the system of seeking, accepting and monitoring assurances is one of the elements which provides sufficient confidence in the system of extradition, and that is very important. Several parts of the Bill make reference to assurances, for example, when we talk of the circumstances, the basis of extradition, we talk about clause 4 subclause 2 and also when we refer to Clause 14 again, once more assurances are required and the monitoring of assurances is very important.

One may argue that the extradition process might be regarded as unfair or harsh for those who may be subjected to it. As I said, the safeguard, the respect of human rights and so on, are very important because, at the end of the day, we must not forget there are, on the other side, victims of crimes, crimes which are unpunished. We have international relationships, we have the countries' level of criminality and we have the countries'

international reputation. So, one has to balance the other, and that is why there must be an assurance that human rights and all other rights are respected. For example, another safeguard would be that of double jeopardy, that is, the person should not be subjected to a criminal trial in the country and elsewhere so that he is tried twice for the same offence - basic principle of criminal law. We have also extraneous considerations which must be taken into account, that is, the request may be refused if the purpose of the request is deemed to prosecute or punish a person for the reasons I have just highlighted. We have circumstances such as the passage of time. Certain offences will be time-barred. Certain offences will not be punishable because of the lapse of time. We have the age of the person that has to be taken into consideration. There will be cases when there are inhuman and death penalty; the Bill will not find its application.

In order to soften what I have just said about the harshness of extradition procedures, I would urge - and I turn to the Attorney General - for greater information to be disseminated, be it nationally and be it where the requesting country is because, as we said, that is very important. We will have cases where there will be those who may not be taken into custody upon application made before a Magistrate. There again, I would urge that the lapse of time that the person is kept in custody, is kept to a minimum and, indeed we should look very closely at our criminal justice system. Sometimes it has been known to happen that people are kept into custody pending applications and it could take a long time, and that could go against the requirement of due process of the law. Therefore, we have to ensure - because here we are talking about international commitments - that these elements, basic rights rather than elements are respected.

In supporting this Bill, Mr Deputy Speaker, Sir, cooperation is of bilateral nature and it is inherent in extradition that one country accepts to a certain degree the criminal justice of the other countries and each country may have different views on how crimes are looked at legally. Each country has a different view how it is going to be prosecuted and punished. But, this acceptance that I have just talked about is not absolute. For example, it must be, as I have said, compliant with human rights, because if one country refuses extradition to the other country, then, of course, there will be the repercussions. In cases where extradition is required to the country, to Mauritius, this will not be granted and it has to be taken into consideration.

When we look at the UK Extradition Law which was passed in 2003, the House of Lords set up a Select Committee, in its second report in 2014/15, to look at the law and

practice of extradition in the UK. One of the matters that came out very much was again - and that is why I have harped a little about human rights - that the human rights bar is set at a very high level and accusations of human rights, breaches are very serious and Courts should be there to ensure as a barrier, as a gatekeeper to those person's human rights. One Court's interpretation of human rights may not be the same in terms of degree to another Court. Therefore, it is very important that the Court acts as this *parapet* and ensures the respect of that person's human rights irrespective of circumstances.

Therefore, Mr Deputy Speaker, Sir, I will not go on more, save to say that the application of the Extradition Bill must be done in respect of rights, in transparency to ensure that international obligations are respected, international relations are not trampled upon. I, therefore, once more congratulate the Attorney General for coming with this Bill.

I thank you, Mr Deputy Speaker, Sir.

The Deputy Speaker: Hon. Dr. Joomaye!

Dr. Joomaye: Mr Deputy Speaker, Sir, I move that the debate be now adjourned.

Mr Sawmynaden rose and seconded.

Question put and agreed to.

Debate adjourned accordingly.

ADJOURNMENT

The Deputy Prime Minister: Mr Deputy Speaker, Sir, I beg to move that this Assembly do now adjourn to Tuesday 04 July 2017 at 11.30 a.m.

Mr Sawmynaden rose and seconded.

Question put and agreed to.

The Deputy Speaker: The House stands adjourned.

At 6.24 p.m., the Assembly was, on its rising, adjourned to Tuesday 04 July 2017 at 11.30 a.m.