

UNIVERSITY OF MAURITIUS
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***Speech of the Hon. Attorney General
On the Constitutional History of Mauritius***

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Ladies and Gentlemen,

I am indeed very pleased to be here to share my appreciation on the Constitutional History of our country.

The present Constitution that dates back to 1968 has its origin in the 1885 Constitution which had provided an elective council, but not a representative system of Government.

That was in the time of Governor Pope Henessy.

The Constitution was the outcome of the conflict led by two groups: one, by Sir Cécilcourt Antelme, the other, by Sir Virgil Naz and William Newton.

In 1907, Dr. Eugene Laurent, assisted by René Mérandon, Anantole de Boucherville, Edouard Nairac, Goolam Mohamed Issac launched a multi-racial political party named Action Libérale to militate for constitutional reforms and to establish a representative system of Government. They did not succeed and elections were held in 1911, 1916, 1921, 1926, 1931 and 1936 under the old 1885 Constitution.

The foundation of the Mauritius Labour Party in 1936 ushered in a new era and the work of constitutional developments was taken up very seriously. The party asked that the right to vote be given to the workers as well. This was not the practice under the 1885 Constitution, as electoral qualifications were based on educational qualifications and property ownership.

The appointment of Dr. Seewoosagur Ramgoolam in 1940, later Leader of the Mauritius Labour Party, to the Council of Government, marked the beginning of a new chapter in the constitutional history of Mauritius. In a

Council of Government mostly composed of oligarchs, he, a lone voice, started asking that the common people be given the right to vote.

Simultaneously, India became independent and a wind of change began to blow over Asia and Africa. The British Government revised its colonial policy and decided to review the constitutional problems of the colonies.

In Mauritius, the Labour Party from outside, and Dr. Ramgoolam from inside the Council, now National Assembly, and certain social forces, clamored for a new constitution.

The then Governor Mackenzie Kennedy appointed a consultative committee to formulate views on the type of constitution that Mauritius needed at that particular point in time.

Two groups of well known personalities, one composed of eminent Mauritians like M.J. Leclézio, P.R. Raffray, P. Hugnin, T. Mallac, Jules Koenig, a few others of Dr Ramgoolam, Guy Forget, Renganaden Seeneevassen, Rault and Harilall Vagjhee, a few others were formed.

The two groups had conflicting ideas as to the right to vote. The conservatives maintained that standard VI i.e. today CPE be the qualification to enable someone aged 21 to vote. The other progressive group as it was called opposed that and asked that a literacy test be the electoral qualification. It meant anyone writing his name in any language currently written or spoken be it English, French, Hindi, Urdu, Tamil, Telegu, Marathi or Mandarin should be given the right to vote. That made an epoch struggle between both groups so much so that the then Secretary of State expressed the view that Standard VI Certificate be maintained. Dr. Ramgoolam and others of the progressive group reacted strongly. Finally, the Secretary of State accepted that literacy test be accepted and the 1948 and 1953 elections were held accordingly. That opened a new chapter in the constitutional history of Mauritius.

Ladies and Gentlemen

The Mauritius Labour Party right from the time of its foundation had asked the right to vote for all people indiscriminately. As from 1953, the party under the presidentship of Guy Rozemont and leadership of Dr.

Seewoosagur Ramgoolam militated for universal adult suffrage. It also added responsible Government. At the request of this party, the Secretary of State invited a delegation to discuss constitutional matters in 1955. The main demands of the party were (1) universal adult suffrage (2) responsible Government. Parti Mauricien showed disagreement and asked (1) that the 1948 Constitution with the literacy test be maintained (2) that proportional representation be approved. The Parti Mauricien had 2 elected members in the Council whereas the Labour Party had 14, yet the Secretary of State approved that proportional representation be introduced.

The Labour Party reacted very strongly. Dr. Ramgoolam and his colleagues boycotted the Council and held meetings across the country. Public opinion was mobilized. World opinion was influenced. The Secretary of State then convened another conference that was held in 1957. He this time categorically said that proportional representation was not good for Mauritius and that universal adult suffrage be introduced. Subsequently as a first dose of responsible Government, a ministerial system was established and a few Council members were appointed ministers.

The Mauritius Labour Party had further proposed that the electoral system be further democratized. To this effect, it had asked that Mauritius be divided into 40 single-member constituencies. Parti Mauricien had opposed it. The British Government appointed an Electoral Boundaries Commission which found logic in the demands of the Labour Party and demarcated 40 constituencies.

A general election was held in 1959. The Labour Party in alliance with the Comité d'Action Musulman bagged 31 seats. Parti Mauricien obtained only 3. Now started the struggle for independence.

In 1959, soon after the general election, Dr. Ramgoolam, Labour Party Leader while in London expressed the view that Mauritius should obtain independence. The word independence had not till then been uttered. The whole population was surprised and happy too. Large numbers of people asked if independence could be possible. Some became optimist, others remained pessimist.

Feeling very strong with the results the Labour Party obtained in 1959, it now asked the British Government to invite a delegation to discuss further

constitutional matters. I must here, recall that despite the party's demand for responsible Government in the 1955 and 1957 constitutional conference, this was not fully discussed.

The British Government convened a conference in 1961. The Labour Party asked (1) Immediate internal autonomy (2) Independence in 1964 and (3) safeguards for the minorities.

Parti Mauricien opposed. Rather, it asked that internal autonomy be not given, especially because of its fear that a majority community could dominate the minority communities. The Labour Party talked of and proposed safeguards for the minorities. The British Government in its wisdom did not grant internal autonomy nor did it discuss the independence issue. However, it granted a new constitution with a two-stage proposal towards responsible government. The first stage was to make the Leader of the House Chief Minister, as soon as possible, and the other upgrading or restyling the Chief Minister as Premier following a general election with an affirmative majority vote.

The appointment of Dr. Seewoosagur Ramgoolam as Chief Minister was a milestone in the constitutional history of Mauritius. Now the Governor who had till then been the only person to decide major constitutional, political and administrative issues of Mauritius now started consulting the Chief Minister.

Ladies & Gentlemen, that was a unique honour given to a Mauritian who rightly deserved that position for his contribution to the welfare of the country.

A general election was held in 1963 to decide if Chief Ministership should be upgraded to Premiership or not. Parti Mauricien and the Independent Forward Bloc, were against creating the posts of Chief Minister and of Premier. The election was, therefore, a serious fight to prevent the Labour Party from having its Leader appointed Premier of this country. Anyway the election was held. Both the Parti Mauricien and the IFB fared well but the Labour Party got a majority. The Legislative Council approved a motion that Dr. Ramgoolam be appointed Premier of Mauritius and this was approved by the British Government.

Ladies & Gentlemen, that was another great landmark in the constitutional history of this country. Till then the Governor had been consulting the Chief Minister. Now the Governor started acting on the advice of the Premier. That was the final step to responsible Government. The Governor appointed Ministers, summoned and prorogued Parliament, made appointments among other things with the advice of the Premier.

Mauritius had moved a long way since 1948, the first election held under literacy test and since 1959 when elections were held under adult suffrage, yet the Governor was the Supreme head of the country. The leadership was divided between him and a Mauritius born political head of a party.

Dr. Seewoosagur Ramgoolam now held the portfolio of Home Affairs. That marked the beginning of responsible Government.

Ladies & Gentlemen

I have earlier mentioned that Dr. Seewoosagur Ramgoolam was the first politician and Leader of a political party to have said that Mauritius needed independence as far back as in 1959.

Now as Premier of Mauritius that was enjoying responsible Government, his next patriotic move was to ask independence for Mauritius. He requested the British Government to invite a delegation. That was held in 1965 with the participation of delegates from all the political parties. The Labour Party, the IFB and the CAM pronounced themselves in favour of independence whereas the Parti Mauricien was against. It asked that Mauritius be integrated with Great Britain.

The British Government found itself in a dilemma. Normally the entire population of a country fights for independence. Here in Mauritius, there was strong opposition. The British Government did not displease either the Labour Party or the Parti Mauricien. It made independence conditional on a majority vote of a freshly elected Parliament. Accordingly, a general election was held in 1967. Parti Mauricien got the Mauritius Muslim Party and the Tamil United Party with it, while, on the other side, the Independence Party comprised the Labour Party, the CAM and IFB. That election was memorable.

Each alliance fought hard to win, one to make Mauritius independent, whereas the other to get it integrated into Great Britain, although the latter had not shown any willingness nor any thought had been given to this issue in the 1965 Constitutional Conference.

Another chapter in the constitutional history of Mauritius leading to independence was now opened. Dr. Ramgoolam moved a motion in Parliament to this effect. Despite Parti Mauricien's stiff opposition, the motion was passed with a majority. The British Government accepted to grant independence and handed over copies of the Mauritius Independence Act and the Mauritius Independence Order which were tabled in Parliament. That meant transfer of power i.e. independence of Mauritius.

The then Governor General read the speech of Her Majesty The Queen wherein mention was made:

“Mauritius has become a sovereign and independent state”.

Addressing Parliament on that occasion the Governor General Sir John Shaw Rennie earlier said

“You are now fully charged with the administration of Mauritius and so far as within the power of men, you are the masters of her destiny”.

Ladies and Gentlemen,

We have gone over several decades of constitutional struggles, developments and reforms. What I have shared with you is only a brief history and have omitted many essentials. Nevertheless, we are in a position to know where we were and where did we reach gradually. Her Majesty the Queen of the United Kingdom was the Queen of Mauritius as well. Gradually when the people evolved as a nation, the need was felt to break our link with Great Britain and thus in 1992 when Sir Aneerood Jugnauth, actually President of the Republic was Prime Minister, Mauritius became a Republic.

A Constitution is and remains organic. It grows, our Constitution has to respond to the exigencies of our multi-racial, industrially and socially

evolving country. Our Prime Minister Dr. the Hon. Navinchandra Ramgoolam is fully aware of that. The Presidential address on the Government Programme 2010 – 2015 elaborates. I quote

“5. The Constitution we inherited from the founding fathers of the nation has served us well. However, no matter how well our institutions may be seen to be functioning, they need to be adjusted to help the country face new challenges. We need a constitutional regime that will strengthen our democracy, promote nation-building and further entrench the fundamental rights and freedom of all Mauritians.

6. As part of this process of constitutional review, Government will start wide-ranging consultations and will appoint a team of constitutional experts which will assess the application of the Constitution since 1968 and consider the appropriate constitutional reforms, including the reform of our electoral system.”

Ladies and Gentlemen

I have felt immense pleasure in sharing my appreciation on certain important aspects of our constitutional history.

Thank you.